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HUMAN SERVICES FOR MONTANA'S FUTURE

FINAL REPORT TO THE GOVERNOR

SUBMITTED BY

THE GOVERNOR'S HUMAN SERVICES DELIVERY TASK FORCE

SEPTEMBER 15, 1988

Prepared by:

John M. Shearer, Coordinator  
Diana Spas, Technical Writer  
Helena, Montana

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## PREFACE

This report is divided into two parts. Part I is an Executive Summary that briefly describes the Human Services Delivery Task Force, its mission and activities (Chapter I), and Task Force recommendations (Chapter II).

Part II<sup>1</sup> is the main body of the final report. It contains a review of human service history, policies, funding, administration, task force recommendations and supporting documentation (Chapters III - VI and Appendices I - II).

Task Force staff and presenters developed numerous documents for meetings and Task Force decision-making. Often these materials provided new ways of looking at and understanding Montana's human services. They are located in Appendix I. Appendix II is a separately-bound resource directory of human services.

Task Force recommendations and conclusions have been boxed for emphasis. Primary recommendations are double-boxed. The recommendations involving human services mission, the fundamental purpose of assistance and child support require reading the related references and materials in Appendix I.

For an overview of human services issues in Montana, read "A Brief History of Relief" found in Chapter III and Chapter II "Executive Summary of Recommendations."

The authors wish to thank those who prepared reports, made presentations to the Task Force and those who have taken time to review and correct the various drafts of this document. Persons providing editorial assistance include Bill Yaeger, Richard Roeder, Teresa Olcott Cohea, Lois Steinbeck, Jim Smith and Linda W. Shearer.

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<sup>1</sup>The Final Report includes both Parts I and II, supporting documentation, appendices and bibliography. Copies are available from the Citizen's Advocate Office, 1-800-332-2272 or 444-3468 in Helena.

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## TABLE OF CONTENTS

PREFACE	PAGE 2
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PART I  
EXECUTIVE SUMMARY

CHAPTER I	INTRODUCTION	5
CHAPTER II	SUMMARY OF RECOMMENDATIONS	8

PART II  
RECOMMENDATIONS: BACKGROUND, RATIONALE AND IMPLEMENTATION

CHAPTER III	HUMAN SERVICE POLICY AND WELFARE REFORM	14
CHAPTER IV	UNIFORM FUNDING OF HUMAN SERVICES	37
CHAPTER V	MULTI-COUNTY COORDINATION	46
CHAPTER VI	CONSOLIDATING CERTAIN STATE ADMINISTRATIVE SERVICES FOR THE DEVELOPMENTALLY DISABLED	51
BIBLIOGRAPHY		54

## APPENDIX I

APPENDIX II A DIRECTORY OF MONTANA HUMAN SERVICES<sup>2</sup>


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<sup>2</sup>Appendix II is bound under separate cover.





PART I  
EXECUTIVE SUMMARY



## CHAPTER I INTRODUCTION

Governor Ted Schwinden created the Human Services Delivery Task Force July 1, 1987, to undertake a study of the human service delivery system and all human service programs. The study was to accomplish the following objectives:

1. provide general recommendations on the division of state and local government responsibilities for the administration of human services.
2. provide a structure for multi-county administration or coordination of human service programs.
3. simplify the multiple funding arrangements that exist between the state and local governments for human services.
4. provide equitable funding among counties, as well as between local governments and the state.
5. ensure representation for local governments on boards for human service programs.

The executive order creating the Task Force<sup>3</sup> implied the need for improved policy, system design and accountability. It pointed to the value of community-based services and noted that, while the constitutional responsibility for certain welfare services rests with the state, resources and legal authority are generally controlled by local officials or boards.

The nineteen-member Task Force is made up of private citizens representing various constituencies, county commissioners, legislators and the directors of the five human service departments - Social and Rehabilitation Services, Institutions, Family Services, Health and Environmental Sciences and Labor and Industry.

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<sup>3</sup>Appendix I, Final Report, Part II.

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The Task Force met nine times during the past year. They began with an overview of each human service agency and most programs now operating in Montana. They reviewed welfare-related work programs and the proposed Constitutional Amendment relating to the legislature's authority to provide economic, social and rehabilitative services; set eligibility criteria, duration and levels of benefits. The Task Force solicited system and program reforms from its own members, the public, special interest groups, recipients, provider and agency staff. The Task Force then narrowed its focus and directed staff to prepare an in-depth study of selected areas and to develop options. This study makes up the bulk of this report. From this the Task Force drew conclusions and chose the following recommendations.

Except at work sessions, audience input was accepted or solicited during Task Force meetings. A discussion draft of the final report was circulated to counties, interested members of the public, advocate groups, interested recipients, providers, staff and others. Public input meetings were held in six Montana communities. The Task Force considered this input before making its final recommendations to the Governor.<sup>4</sup>

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<sup>4</sup>A summary of input is in Appendix I, Final Report, Part II.



## CHAPTER II

### EXECUTIVE SUMMARY OF RECOMMENDATIONS

The Human Services Delivery Task Force recommends that the State of Montana adopt the following policies, program reforms, administrative and funding arrangements:

#### HUMAN SERVICES MISSION

It should be the policy of the State of Montana that the purpose of human services is to maintain or enhance the quality of life of Montana's citizens by accomplishing three primary goals:<sup>5</sup>

1. Provide assistance with food, clothing, shelter and medical needs as necessary to ensure the basic survival of those who cannot provide for themselves and to temporarily assist those capable of achieving self-sufficiency;

2. Provide assistance with protection of persons who by reason of age, infirmity or disability are unable to protect themselves from exploitation, abuse, neglect or endangerment and by protecting the health and safety of the public at large, its persons, property and environment;

3. Provide assistance to persons in achieving and maintaining a degree of independence and self-sufficiency compatible with individual ability.

#### WELFARE AND PUBLIC ASSISTANCE POLICY

It should be the policy of the State of Montana that the first and fundamental purpose of public assistance and related programs of relief is to assist those who cannot provide for themselves to survive by providing short-term assistance with food, clothing, shelter and emergent medical relief. The second purpose of assistance and related programs is to foster independence and self-sufficiency.

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<sup>5</sup>Refer to Human Service and General Assistance Policy Definitions in Appendix I, Final Report, Part II.

It should be the policy of the State of Montana to: (1) provide varying levels of general assistance (GA) based upon local area costs; (2) require applicants for general assistance to take part in services aimed at achieving self-sufficiency; (3) revise its regulations to allow general assistance recipients to accept short-term work without losing assistance.

It should be the policy of the State of Montana to: (1) continue the Aid to Families with Dependent Children - Unemployed Parent (AFDC-UP) program; (2) ensure that non-custodial parents, not taxpayers, be held responsible for fair and adequate support of their minor children, by establishing the following in statute:

- a. a "percentage of gross income and assets standard" for calculating child support;
- b. mandatory wage-withholding of child support;
- c. assignment of paternity procedures.

## SERVICES

Transition services to AFDC families should include: (1) continuation of financial assistance based on performance for those persons involved in ongoing education and training; (2) extended daycare and medical aid for those persons leaving assistance to work.

Services designed to prevent AFDC dependency should be initiated which include: (1) a pilot program giving priority for services aimed at self-sufficiency to young, first-time AFDC recipients with children less than 6 years old; (2) a pilot program assisting the working poor with one-time, short-term daycare, medical coverage and financial assistance, so they may attend training programs leading to higher-paying employment; (3) changing current practice to:

- a. encourage those participating in preparation for work services to complete training rather than to take immediate entry level employment and,



b. to encourage recipients to choose training that leads to full-time employment with opportunities for advancement.

Services aimed at achieving self-sufficiency should be offered to unemployed non-custodial parents who cannot contribute to the support of their child(ren).

Services to GA recipients with serious barriers to employment should include: (1) procedures to ensure increased use of existing mental health, alcohol counseling, employment training and other existing community services and (2) incentive-based assistance in which recipients might secure serial part-time jobs without losing all financial aid.

#### UNIFORM FUNDING OF GENERAL ASSISTANCE

Because general assistance is a state responsibility, the Task Force believes that the state should also be responsible for funding it. Ideally, assignment of costs should be based upon a limited contribution by the state general fund plus contributions by each county. County contributions should be based upon taxable valuation of land, such as now occurs with the university mill levy or some other formula for funding assistance that results in equalization. In the present funding arrangement for state-administered county assistance programs, part of the funding comes from the general fund and is combined with 12-mill county levies. The Task Force recommends that the general fund contribution be continued as a way to reduce the impact upon rural areas, some of which would see a tax increase with equalization.

#### ADMINISTRATION OF CERTAIN PROGRAMS

The State of Montana should implement the following policies, organizational structures and practices for the administration of selected human services programs:

1. Provide for Regional Coordinating Councils for multi-county coordination of services. Councils should coordinate human services in their areas by:

a. reviewing area plans submitted to state and federal government;

- b. preparing annual plans and recommendations for increased coordination of local services;
- c. preparing a plan for long-range consolidation of support services (e.g., office space, clerical, equipment, transportation, etc.) for local programs;
- d. contracting with state agencies for the administration of interagency projects, staff and facilities;
- e. directly administering small programs that cannot be efficiently administered by a separate organization.

2. The Human Services Delivery Task Force has determined that caring for the poor is a moral and social obligation of all citizens and, consequently, of the State of Montana. To ensure just and uniform administration and to withstand court tests, determination of what needs shall be met and eligibility standards should be established by the state. Further, administrative authority should not be separated from constitutional, program or fiscal responsibilities. In order to foster local government involvement while unifying administrative, program and fiscal accountability, the Task Force recommends that:

- a. all county welfare boards or regional coordinating councils (pps.46-49) select county welfare directors from a list, provided by SRS, of qualifying applicants;
- b. local directors work with county welfare boards or regional coordinating councils to prepare and submit annual plans for local human service office administration, office policy and practice;
- c. localities should periodically set levels of general assistance according to prevailing local costs. The State of Montana should provide justification for amendments to local benefit-level recommendations.

The state should be obligated to honor local plans except where contrary to policy, or another cause is identified;

4. During the first month of general assistance, or as necessary, benefits should be paid based on documentation of existing or anticipated expenses;

5. State-level administrative functions for institutions and community-based services serving individuals with developmental disabilities should be consolidated in the Department of Family Services by July 1, 1990, as part of a larger community-based services consolidation. Administrative structure, funding and other existing features of the Developmental Disabilities Division should be maintained.

PART II

RECOMMENDATIONS: BACKGROUND, RATIONALE AND IMPLEMENTATION

At its January 26, 1988, meeting the Human Services Delivery Task Force reviewed proposals and initiatives submitted by providers, recipients, agencies and employees.<sup>6</sup> From this review, the Task Force agreed upon four emphasis areas for further study.

Part II has two purposes: (1) to outline the four areas of study and the resulting recommendations and (2) to provide a background and context for analysis of those recommendations.

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<sup>6</sup>Appendix I.

CHAPTER III  
HUMAN SERVICES POLICY AND WELFARE REFORM

Adopt a statement of philosophy, public policy and mission for all Montana human services.

The Task Force asked staff to develop a statement of philosophy, public policy and mission for human services. The parts of the mission relating to welfare are included in a reform plan. The reforms:

1. define the fundamental purpose of assistance,
2. define recipient and state obligations,
3. reflect current welfare research,
4. include innovative methods from other states, and
5. ready Montana for upcoming federal welfare reform.<sup>7</sup>

An explanation of poor laws, poorhouse policies and the development of countless institutions and specialized programs was needed in order to make informed reform proposals. For this purpose, the staff prepared a review of welfare and human service history.<sup>8</sup>

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<sup>7</sup>Research into each of these areas is found in Appendix I.

<sup>8</sup>Research for this portion of the report was conducted, in part, by Linda Shearer.

## A BRIEF HISTORY OF RELIEF

### ELIZABETHAN POOR LAWS

The Elizabethan Poor Laws of 1601 were one of the first organized systems of public relief, encompassing money collection, program management and distribution of money and other sources of relief. The problems which perplex us today are foreshadowed in the Elizabethan Poor Laws, including equality of costs among counties or parishes, migration to urban counties in search of work and relief, concern over the able-bodied ("unworthy") poor, vs. the helpless and disabled ("worthy") poor, case counseling and moral reform as a prerequisite to relief.

Prior to these laws, churches and monasteries owned much of the English land. They collected alms for the poor, allowed the unemployed to tend church lands and provided shelter and food in monasteries. In 1535 the state confiscated and sold these lands to farmers.

Those who could, purchased land for farming. Privatization and enclosure of lands for sheep pasture drove peasants away. Landless peasants might work on these farms, but lost the financial and social security provided by the church. Many small farms failed, swallowed up by the more prosperous. European urban industrialization led to further social and economic change. The middle class grew, but left even more unemployed and homeless. Industrialization added to the middle class but could not provide steady or sufficient employment for the homeless lured to the cities.

Disparities grew between the "haves" and "have-nots." The roads swarmed with homeless poor. Begging and robbery were common. A peasant's revolt in Germany led to reaction in England: persistent vagrants might be enslaved, branded or whipped until willing to return to their parish of residence. The destitute were seen as posing a threat to national security.

The Poor Laws sought to regulate the destitute, to make the highways safe, reduce social and economic problems and preclude rebellion. The laws helped maintain a labor supply for industry and agriculture by helping the landless through hard times. Poor laws relieved misery somewhat, mobilized political power and regulated the poor by providing only home parish relief - the classic purposes of welfare policies from 1600 on (Katz, 1986).

The problems and methods of financing relief are ageless. Parliament took responsibility for a national system of poor relief, supervised it through legislation and delegated administrative authority to local governments - the model for Montana's own system (Veeder, 1938).

Parishes collected and administered poor funds. The parish church derived power from the state and was expected to support it through collection of poor taxes. Mandatory church attendance and the parish court system reinforced this power.

The parish bore financial responsibility for illegitimate children and strove to prevent increases by emphasizing work, and condemning promiscuity and intemperance. The parish was expected to minimize dependency and pay for its failures. Thus, "case counseling" became part of financial assistance.

Fines, jailing and/or confiscation and sale of goods were allowed in order to hold parishioners financially responsible for relief efforts. There was an underlying assumption that people would not care for the needy and must be forced to do so. In this way a tradition of "home town" responsibility was established which was carried forward into the twentieth century.

#### AMERICA'S POORHOUSE ERA:

America's economy from late colonial days to the Great Depression was characterized by repeated mini depressions - approximately every ten years (Katz, 1986, Blum, et. al., 1981).<sup>9</sup> Industrialization in America was similar to that in Europe. There were starts and stops; successes and failures impacted agricultural growth and decline - as did European market changes. Immigration sometimes provided more laborers than a budding economy could use. Most immigrants were unskilled and poor. They willingly worked for wages, were not attached to the land and were destitute at job's end.

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<sup>9</sup>"When Americans first began to experience the rhythmic rotation of booms, panics, and depressions, they were so mystified that many of them turned to the supernatural for an explanation. An angry deity, they said, periodically brought hard times to punish men and women for their moral delinquencies -- extravagance, speculation and greed." (Blum, et. al., 1981)

As cities developed, vagrancy, begging and other signs of poverty led to increased public charity. Besides good will, this was aimed at preserving seasonal labor supplies and ensuring voter support at a ward level. This effort was insufficient. While not proposing that poverty should be eradicated or wealth redistributed, there was a desire to feed the poor without developing a class who chose to live off charity rather than work. Thus, the classic problems of public relief:

1. how to serve the unfortunate and disabled "worthy poor" while,
2. discouraging or punishing the able-bodied "unworthy poor" (Katz, 1986).<sup>10</sup>

The poorhouse was designed to meet these goals and was referred to as "indoor relief." Proponents asked that no "outdoor relief" be given outside the poorhouse, as this would encourage pauperism. All but the most infirm and incompetent would be required to work, e.g., breaking rock or splitting cordwood. The unwilling were "malingerers." Intemperance was thought to be a primary cause of pauperism and it was prohibited. The required work and temperance of the poorhouse would cause moral rehabilitation.

Poorhouse advocates waged political and financial war against other forms of relief. Local governments were required to support poorhouses, and laws were passed to prohibit indiscriminate charity. Yet, poorhouse advocates were never totally successful. Their efforts interfered with labor supplies; they did not regulate the poor, and they provided marginal relief. It became apparent that the poorhouses were often mismanaged due to corruption, ineptitude, hostility, and insufficient funding.

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<sup>10</sup>Later, as the cycle of mini depressions continued words like "drifter" and "hobo" emerged to describe the unemployed moving from town to town. In the Montana Magazine of Western History, Harvie and Bishop (1980 and 1983) describe Montana law officers "floating" these persons out of town after a night's free lodging in the local jail.



Investigations and reform efforts led to numerous scandals and concern over inhumane treatment. Advocates argued that creation of more poorhouses would help by reducing overcrowding. Reformers argued successfully for creation of separate institutions for the disabled, insane, children and women. This development fueled local construction and job markets, and contributed to development of the helping professions. Yet costs remained high; scandals, inhumane treatment and overcrowding continued. The institutional movement crested in the 1950's and succumbed to the nation's deinstitutionalization movement of the 1970's. The poorhouses eventually were used as county nursing homes for the aged and exist today in that form (Katz, 1986).

## THE DEVELOPMENT OF HUMAN SERVICES IN MONTANA

### THE MONTANA POOR LAWS

Montana's poor laws were established in 1865 by the first Territorial Assembly. They were based on English Poor Laws (Veeder, 1938). The legislature formulated regulations and made county commissioners responsible for relief. Immediate families could be liable for members and billed by the county, within limitations.

Various residency and eligibility requirements were applied and later refined to take advantage of federal programs. The English policy of having the poor work to offset costs was adopted. By 1876 there were provisions for bids by private parties for care of the poor, sick and infirm. Almshouses and poorfarms were adopted; commissioners could be fined for failure to carry out the poor laws. A poll-tax of \$2.00 per male was used to fund county operations.<sup>11</sup>

Counties were sued several times by individual taxpayers for trying to provide additional assistance. The Montana Supreme Court ruled that local interpretation of the relief laws was too restrictive and that counties should be allowed flexibility in providing assistance (Veeder, 1937).

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<sup>11</sup>An outline of the history of funding for Montana's human services is contained in Appendix I.

Montana suffered a series of mini depressions culminating in the Great Depression. These, and repeated droughts, led Montana to institute the Seed Grain Act and Mother's Pension Act of 1915. Counties still administered relief but this was the first step toward centralization. In 1931, 56 counties petitioned the Red Cross for relief. Many persons were destitute and the county system was unable to respond. Veeder (1937) noted that:

"The counties were not equipped to administer or finance a relief program large enough to cope with the demands placed upon them. . . . When federal and state agencies started the emergency programs in Montana, they found that the poor laws which had been passed by the first territorial legislature in 1864 remained practically unchanged. There was no central authority, no supervision and as no standards had been adopted, assistance varied throughout the state. The county boards provided the relief they felt necessary... Judicial decisions and opinions of the attorney generals had tended toward a more lenient consideration of those in need... county boards as a whole had not followed these views."

Between 1830 and 1910 much of the nation's development of human services was in response to the repeated excesses of both poorhouse advocates and reformers. The advocates caused constant conflict among local business, political entities, humanitarian efforts and the state. The reformers left special interest and poorhouse providers in place while creating additional services, which soon became entrenched. The basic issue of establishing a coherent public policy was never addressed.

Two world wars, the New Deal era, the revived economy and the war casualties influenced development of human services in the U.S. These occurrences led to immediate program development - not to planning and establishment of strategic social policy.

Montana's development of client-specific institutions and services paralleled that of the nation in that it repeatedly adopted the practices of other states. Montana's development was less punctuated by scandal or alleged mistreatment. In some cases, especially public welfare, developments were implemented to take advantage of federal funds. The speed with which Montana developed new programs increased with the 1960's Great Society legislation.

By the Executive Reorganization of 1969-1971, 188 agencies, commissions, boards and councils existed (Hargesheimer, 1977), many concerned with human services delivery. A 1972 Executive Reorganization Office report to the legislature states:

"A significant problem faced.... was the lack of centralized and current records concerning the myriad of boards, commissions, councils and officials existing in state government. It was difficult to determine exactly how many agencies of state government there actually were, what their statutory and administrative functions were, and if, in fact, they were performing or had performed the assigned functions."

Executive Reorganization of 1969-1971 reduced the 188 entities to 19. The executive branch is organized on a chain-of-command basis with the governor at the head. Departments are generally organized by function. Departments not headed by an elected official are served by an administrator appointed by and reporting to the governor. Boards with executive authority were abolished or converted to advisory boards.

#### SOCIETY'S VIEW OF ITS RESPONSIBILITY TO THE POOR

Society's expectations of government have changed dramatically in the last 20 years. Noted social critic and organizational consultant Peter Drucker was quoted in U.S. News & World Report: "Nobody really believes anymore that government delivers....Even in matters of defense....no government can promise any longer that it can protect its civilians..." The expectation that government should intervene with money, services and public works jobs has shifted to restrained benevolence and occasionally, resentment.<sup>12</sup> There is a perception that the infusion of

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<sup>12</sup>The Up From Dependency series published by the White House Low Income Opportunity Advisory Board best represents this change in public thinking and attitude.

monies during the 1960's did not produce the desired changes in such problems as poverty and youth crime;<sup>13</sup> and the shrinking financial base of the state and nation forced a reordering of priorities.

The development of a middle class during the industrialization of Elizabethan England and Colonial America created a new base of economic stability and taxation. The middle class in America continued to grow until it became the primary source of tax support. Many of the social developments of modern society are the indirect result of a slowly expanding middle class which provided a base of financial support.

According to recent writers (Levy, 1987, Kuttner, 1983, Bradbury, 1986), the middle class is in danger of shrinking. The consequences of any significant shrinkage on social programming are obvious and help to explain the resentment referred to above. The possibilities become even more pointed when one considers that less than nine percent of the taxpayers in Montana pay roughly 44 percent of the individual income tax (Mt. Dept. of Revenue, 1987). Given Montana's small population, any shrinkage in its middle class is problematic.

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<sup>13</sup>Naisbitt in Megatrends (1982) discusses government's failure to solve social ills as he traces the involvement of government and other institutions in social assistance, regulation and social action from the Great Depression to the present. Shapiro and Greenstein in Holes in the Safety Nets (1988) report that in 1979, "nearly one in every five families with children who would otherwise have been poor was lifted out of poverty by cash assistance programs. In 1986 the rate was one of every nine families."

Howard, in Montana High, Wide and Handsome, suggests that Montana has had economic problems from its beginnings. He states that Montana has been treated as an internal colony in which even the early farmers came to get rich and leave. Montana had never developed an ongoing stable economic base sufficient to support its population or determined how many people its land and economy could support.

Howard adds that each time Montana's economy was bad enough to force the state to take stock and analyze its situation, this process was deferred by temporary war economies, federal economic intervention and ventures to extract finite resources. Howard maintains that these economic bursts fed the state's economy enough to repeatedly postpone the need for long range planning. Current public debate still focuses on many of the same economic problems: farm and forest product prices and transportation costs, drought, employment of persons born in Montana who would like to stay and employment of those migrating here to make a new life.

Society's view of its responsibility to the poor is significantly influenced by a pervasive belief that the existing system of human service assistance has failed, especially welfare. Katz begins his book, In The Shadow of The Poorhouse, with this statement:

"Nobody likes welfare. Conservatives worry that it erodes the work ethic, retards productivity, and rewards the lazy. Liberals view the American welfare system as incomplete, inadequate and punitive. Poor people, who rely on it, find it degrading, demoralizing, and mean. None of these complaints are new; they echo nearly two centuries of criticism (Katz, 1986)."

This two-hundred-year-long history of public policy, program and system development is the context in which the Montana Governor's Human Services Delivery Task Force makes its recommendations. Within this history are the roots of division surrounding most public policy decisions in human services today - whether or not to provide relief for the able-bodied, specialized programming for each social problem, and how to finance human services in a perceived period of growing demand and diminishing resources.

#### POLICY FOR HUMAN SERVICES

The history of private and governmental efforts to assist those in need makes it impossible to separate protective assistance to children, the disabled and elderly from assistance to other special groups or from public relief - the grandparent of most human services. Even programs so seemingly unrelated as environmental protection and employment find their roots in the proliferation of social programs which started in the 1890's with poorhouse reforms and continued up to the late 1960's.

A fundamental statement of philosophy, public policy and mission for human services must reflect concern for all of Montana's delivery system. Human services include an array of services aimed at public protection.

THE PURPOSE OF HUMAN SERVICES<sup>14</sup>

The primary aim of human services has always been to protect the well-being of persons, property and the state.

Human services have always been intended to be temporary except to those permanently unable to become self-sufficient.

It should be the policy of the State of Montana that the purpose of human services is to maintain or enhance the quality of life of Montana's citizens by accomplishing three primary goals:<sup>15</sup>

(1) Provide assistance with food, clothing, shelter and medical needs as necessary to ensure the basic survival of those who cannot provide for themselves and to temporarily assist those capable of achieving self-sufficiency;

(2) Provide assistance with protection of persons who by reason of age, infirmity or disability are unable to protect themselves from exploitation, abuse, neglect or endangerment and by protecting the health and safety of the public at large, its persons, property and environment;

(3) Provide assistance to persons in achieving and maintaining a degree of independence and self-sufficiency compatible with individual ability.

---

<sup>14</sup>The language used in the mission, policy and purpose statements is based in part on a review of Elizabethan, American and Montana Poor Law history, the Administrative Rules of Montana for the Department of Social and Rehabilitation Services, Client Outcome Measures from the National Child Welfare Leadership Center and the American Public Welfare Association's Guidelines for A Model System of Protective Services, previous interviews with human service personnel and Task Force member input.

<sup>15</sup>Refer to Human Service and General Assistance Policy Definitions in Appendix I.

## WELFARE PROGRAMS

Aid to Families with Dependent Children (AFDC) is an economic assistance program designed to help families without adequate income and resources to support their dependent children. Broad eligibility and benefit limits are federal-determined while the state sets the percentage of the poverty level at which it will allow client entry and the actual amount of benefits. In Montana, besides dependent children, one must have combined income and resources of less than 47% of the poverty level to qualify for AFDC. This level fluctuates as poverty guidelines change.

Approximately ten percent of Montana AFDC cases are two-parent families in which the principal breadwinner is unemployed (AFDC-UP). AFDC-UP is an optional component which Montana currently provides.<sup>16</sup>

AFDC is a problem, in that:

1. Montana caseloads have grown by 51 percent since 1978;<sup>17</sup>
2. total costs have increased by 196 percent since 1978;<sup>18</sup>

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<sup>16</sup>Montana provided AFDC-UP from 1978 to 1982, then rescinded it as a cost-cutting measure. AFDC-UP recipients became eligible for general assistance instead. The 1985 Legislature reinstated AFDC-UP in order to shift some families from general assistance (100 percent general fund) to AFDC (30 percent general fund). AFDC-UP saves state general fund money.

<sup>17</sup>Graphs tracking caseload and payment growth for AFDC, Medicaid and GA are in Appendix I ("SRS Statistical Report," July, 1987).

<sup>18</sup>Cost increases are largely attributable to caseload growth. AFDC benefit levels are unchanged from 1982. If adjusted for inflation, individual payments have actually declined by 35 percent since 1970 (Center for Budget and Policy Priorities, 1988).



3. general fund revenue has increased by only 88 percent since 1978;
4. fifty-one percent of AFDC clients report being unwed when their children were born. Due to difficulty in establishing paternity, child support provisions are largely unenforceable. Forty-eight percent were teenagers at the birth of their first child;<sup>19</sup>
5. twenty-seven percent of AFDC recipients have received benefits for 10-24 consecutive months; one-fifth, for more than two consecutive years;
6. seventy-three percent of recipients have enrolled for AFDC more than once.

Unwed mothers, divorce and delinquent or non-existent child support, Montana's sluggish economy - all have contributed to the growth of AFDC caseloads. It is primarily a problem of undereducated, unskilled women who, even if they can find full-time employment, do not earn enough to pay for child care and medical insurance.

Medicaid provides medical benefits to those who are aged, blind, disabled or AFDC-eligible, and who meet income and resource criteria. Although the federal government establishes the basic program guidelines, the state has some discretion in setting income eligibility limits and determining which needs must be met.

Thirty-seven percent of Medicaid recipients are blind and disabled, 36 percent are aged and 27 percent are AFDC adults and children. Forty-four percent of Medicaid benefits go to pay nursing home costs. Medicaid is a problem for Montana in that:

1. caseloads have increased 47 percent since 1978;
2. total costs have increased 170 percent (general fund revenue has increased 88 percent).

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<sup>19</sup>"Information We Know about AFDC Clients in Montana," Social and Rehabilitation Services, 1987.

Medicaid caseload increases are attributable to increased AFDC caseloads and the general "aging" of Montana's population. Total cost increases reflect caseload increases and the escalation of medical costs in recent years at a rate much higher than that of other consumer goods and services.

State general assistance (GA) is an economic assistance program for individuals or families unable to support themselves, but ineligible for other assistance programs. Eligibility and benefit standards are state-determined in the twelve state-administered (assumed) counties.<sup>20</sup> Since 1982, in state-administered counties:

1. caseloads have increased by 104 percent;
2. average monthly GA payments per case have increased by 81 percent<sup>21</sup>.

State general medical assistance provides medical care to those who are ineligible for Medicaid, but who meet state eligibility criteria. In the forty-four state-supervised (non-assumed) counties, program counterparts are county general assistance and county medical assistance - eligibility and benefits are determined on a county-by-county basis.

The appropriation for State GA medical more than doubled between FY86 and FY88 to \$6 million. GA recipients make up half of the GA medical caseload. Most GA medical claims are for accidents and serious illness.

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<sup>20</sup>Montana is one of three states in which general assistance is state-administered in some counties and county-administered in others.

<sup>21</sup>Since 1985, GA average monthly payments per case have only increased by two percent. The bulk of the monthly increase occurred in 1985, following a court decision that GA recipients are entitled to payments equal to AFDC payment levels. Average monthly payments per case increased 48 percent 1984-1985.

A Job Service study<sup>22</sup> of GA job search participants indicated that two-thirds of them were not "job ready" when initially interviewed. The interviewers most often cited the following reasons:

1. having been out of the job market for a year or more - 43.5 percent;
2. lack of adequate transportation - 39.1 percent;
3. lack of skills and experience - 34.2 percent;
4. poor job hunting skills - 30.2 percent;
5. no permanent address/no telephone -28.5 percent.

Among other factors were poor appearance and/or personal hygiene, lack of education, chronic health problems, drug and alcohol abuse and poor work histories.

Most recipients were male (71.5 percent), with almost half lacking a high school diploma or GED. Thirty-seven percent had resided in Montana more than ten years, 19.2 percent for one to ten years and 16.2 percent, less than one year.

Montana's economy certainly contributes to the growth in General Assistance caseloads, as agriculture, mining and logging - traditional occupations for those with little education and training - have suffered from setbacks. The situation is compounded by the multiple additional barriers to employment that recipients face and the disincentives in the system to take part-time and/or temporary work without medical or other benefits.

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<sup>22</sup>Appendix I.

## WELFARE REFORMS

Adopt a welfare reform policy that defines the fundamental purpose of public assistance, reflects current research on federal welfare programs, anticipates federal legislation and the best of innovative methods in other states.

## FEDERAL REFORM AND STATE EXPERIMENTS

Federal welfare reform legislation is still pending. Most options call for transitional medical and child care, work or work preparation in exchange for benefits, incentives to keep teens in school, and options for state experimentation.

The research suggests that the greatest potential is with (1) young single parents, having little or no work experience, who are applying for assistance for the first time, and (2) the hard-to-employ who have severe barriers to employment, e. g., alcoholism, illiteracy, no occupational skill. It suggests that work programs generally have been unsuccessful at either reducing welfare rolls or benefiting clients in significant ways.<sup>23</sup>

State experiments run the gamut from the Illinois workfare model with its blunt goal of immediately vacating welfare rolls, to the partially-voluntary Washington Family Independence Program (FIP) which will attempt to provide layers of incentives for each progressive step through the program to long-term self-sufficiency. Wisconsin has requested several federal rule waivers. It has invested more than \$12.8 million in a Work Experience and Job Training Program, Community Work Experience Program/Workfare, Supported Work, Post Work-Program Childcare, Health Insurance Work Incentive, a pilot AFDC case management project in two counties, a one-time reduction in child support backlogs and a Child Support Assurance Program which, in combination with AFDC, mandatory paternity and child support assignment/collection programs, will provide monies to guarantee a minimum benefit for children.

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<sup>23</sup>See Appendix I for assessments of state experiments.

Most experimental programs haven't operated long enough to claim success (MDRC, 1988, GAO, 1988). The problem for Montana is that those programs that are likely to be successful tend to be too expensive.

A welfare reform plan should encompass transitional medical and child care, work or work preparation in exchange for benefits, and incentives to keep teens in school.

Welfare reform plans should target those client groups most likely to benefit.<sup>24</sup>

### RECIPROCITY

Preparing welfare-related policy and program options is a dilemma. Public policy and programs should be fair. Yet the definition of "fair" changes depending upon perspective: that of the new entrepreneur working 16 hours a day, the middle-income taxpayer struggling to maintain socio-economic status in hard times, the working poor without adequate child or medical care, the newly-divorced mother with no outside work experience, or the divorced father with a new marriage and another child on the way. There are other perspectives too: that of the advocate concerned about social problems, protection of persons, property and the environment; the legislator concerned about financing and accountability; the bureaucrat concerned about administration, quality control and labor relations.

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<sup>24</sup>Research has identified first-time recipients and those with serious barriers to employment as those most likely to benefit from reform programs but cautions against high expectations for any group and cites related factors such as local economies, work types and sites, etc., which may lessen impact.

A statement of public assistance purpose which defines a reciprocal relationship must address the needs of each participant. It should have the appearance of fairness and be fair in practice. In order for government to establish a politically viable system of assistance, those persons paying for the service must perceive that efforts are being made to return recipients to self-sufficiency and those persons receiving the service must perceive that what is asked of them is reasonable.

Montana realizes that it has an investment in helping its citizens to achieve long-term independence - that self-sufficiency returns substantial dividends through productive work, taxpaying, voting, community participation and prevention of generational dependency.

The reciprocal relationship between the state and citizen must be one which both parties can realistically understand and accomplish.

The relationship must be one that the state can adequately finance. It should accomplish its primary purpose of temporary support and survival and make a good faith effort at accomplishing its secondary purpose - a return to self-sufficiency. In short, Montana needs a means to serve general assistance recipients which is affordable, time-limited and enabling rather than punitive.

The first and fundamental purpose of public assistance and related programs of relief in the State of Montana is to assist those who cannot provide for themselves to survive by providing short-term assistance with food, clothing, shelter and emergent medical relief. The second purpose of assistance and related programs is to foster the highest degree of independence and self-sufficiency attainable.

#### SERVICES

Except for maintenance of the very young, elderly and infirm, every service should be aimed at helping recipients to reach self-sufficiency.

## TRANSITIONAL SERVICES

It should be the policy of the State of Montana to use federal and state resources to:

(1) Aid recipients in the transition to self-sufficiency. This help may take various forms depending upon personal needs, aspirations and abilities;

(2) Assist those choosing education, training, work experience, On The-Job-Training (OJT), personal development and other indirect steps to independence, if there is a performance-based, time-limited plan (contract) for completion;<sup>25</sup>

(3) Assist those in transition programs by providing extended daycare and medical assistance within appropriations.

## LEVELS OF ASSISTANCE

It should be the policy of the State of Montana to provide varying levels of general assistance based upon actual needs and costs, in accordance with the goals and purposes of assistance as stated above.

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<sup>25</sup>A performance-based plan spells out the obligations of each party, identifies tasks and dates for their completion. This requirement would partially satisfy the case management and educational requirements contained in proposed federal reform legislation.

## WORK

It should be the policy of the State of Montana to require applicants for assistance to take part in services aimed at achieving self-sufficiency or, to seek and accept employment opportunities.<sup>26</sup>

## THE-HARD-TO-EMPLOY

Montana should develop a pilot program to ensure delivery of existing community mental health, employment, training, educational and social services to recipients with severe barriers to employment, e. g., the emotionally or mentally handicapped, the illiterate and those with few occupational skills.

It is intended that this pilot program serve a number small enough to be manageable, affordable and which leads to client independence. Montana will replicate this pilot on a program by program basis, dependent upon its success.<sup>27</sup>

Montana should revise its regulations to allow general assistance recipients to accept short-term, part-time and "spot" work without losing all assistance. Montana should configure its GA benefits to allow a series of small monetary incentives to recipients who accept these placements.

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<sup>26</sup>Recipients must take part in available services or lose eligibility for assistance. However, this requirement does not apply to those who, by reason of age or infirmity, are unable to achieve self-sufficiency.

<sup>27</sup>The Task Force intends that there be a controlled comparison study to determine the effectiveness of this pilot prior to replication.



General assistance should be calculated and paid in such a way that it is always to the recipient's advantage to seek and accept employment, even if temporary or lacking in benefits. This is not meant to imply a fixed increase in the \$50/mo. "disregard" now used in calculating GA eligibility. It is an incentive-based approach. Recipients taking part-time work might earn up to within a few dollars of the total allowable assistance amount and continue to receive a small additional dollar amount from GA.

#### PREVENTION

The State of Montana should develop a pilot program<sup>28</sup> which offers priority for program services aimed at self-sufficiency to parents, especially teens, with children less than 6 years old, who are first-time applicants for AFDC assistance, who lack job experience, and who reside where services are available.

The State of Montana should encourage those participating in work preparation services to complete training and to choose preparation activities leading to full-time employment at greater than minimum wage.

The State of Montana should develop a pilot program which offers one-time financial assistance with tuition, daycare and medical coverage, for six months, to working single parents earning no more than 25 percent above the AFDC eligibility criteria and who enroll in performance-based assessment, educational and training programs, like those of the Job Training Partnership Act (JTPA), designed to place them in higher-paying employment.

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<sup>28</sup>Program services should include, but are not limited to, child care, Work Incentive Program (WIN), JTPA, Women, Infants and Children (WIC), teen pregnancy prevention, parenting and family planning.

## FAMILY UNITY

It should be the policy of the State of Montana to continue to provide assistance to qualifying two-parent families with dependent children (AFDC-UP<sup>29</sup>) and to include both persons in services leading to employment.

## PARENTAL RESPONSIBILITY

Single parents and their children are the single largest category of poor people in the United States and Montana.

Neither the taxpayers of Montana, nor the children of single parents, should have to bear the burden of unassigned or uncollected parental support payments.<sup>30</sup>

Both federal and state legislation have been strengthened in the last four years, but even stronger and more specific commitments must be made.

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<sup>29</sup>"UP" refers to the federal designation for unemployed parent - a special category, since originally AFDC was intended for single parents only. Montana has offered, rescinded and now offers AFDC-UP again.

<sup>30</sup>The Urban Institute (1987) reports that, "a program similar to one now being tested in Wisconsin could - if implemented nationally - reduce the "poverty gap" by 40% and welfare caseloads nearly by half at no additional cost to the government." An outline of the Wisconsin program is in Appendix I.

It should be the policy of the State of Montana that non-custodial parents be held responsible for fair and adequate support of their minor children. Montana should take four actions to remedy childhood poverty:

(1) Unemployed non-custodial parents who cannot contribute to the support of their child(ren) should be offered program services aimed at achieving self-sufficiency; this should not include assistance benefits unless the individual is eligible. Completion of a basic high school education or General Equivalency Diploma (GED) should be the first priority for minor non-custodial parents;

(2) Implement a "percentage of gross income and assets standard" for calculating child support;<sup>31</sup>

(3) Implement mandatory wage-withholding of child support at the time court support assignments are made;

(4) Implement assignment of paternity procedures in all instances where birth certificates do not identify paternity.<sup>32</sup>

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<sup>31</sup>The Task Force recommends adoption of the child support calculation, mandatory withholding and paternity assignment procedures in the Wisconsin program (Appendix I).

<sup>32</sup>Montana's Child Support Enforcement Bureau has recommended paternity assignment for births to recipients. Wisconsin has tested and implemented this procedure for all births in which a father is not named. Procedures to waive assignment of paternity, when appropriate, are provided.

## CHAPTER IV UNIFORM FUNDING OF HUMAN SERVICES

Funding of county-operated public assistance programs<sup>33</sup> occurs in two ways. If state-supervised, the funding is solely county; if state-administered, the funding is jointly county/state.<sup>34</sup> State-supervised counties (non-assumed) are directed by statute to adopt their own benefit levels for county general and medical assistance. State-administered (assumed) counties are required to set eligibility based upon household size, income and resources available to that household.<sup>35</sup>

The history of public assistance is filled with complicated funding arrangements and concern over funding and service inequities. Among counties these inequities are thought to occur due to client migration and differing administrative practices. Between counties and the state concerns stem from differences over local control, accountability and willingness to pay for or deliver services without greater local taxpayer support or taxing authority.<sup>36</sup>

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<sup>33</sup>Public assistance refers to state and county programs of relief and does not include any federal programs such as Medicaid, AFDC or Food Stamps.

<sup>34</sup>For state-administered (assumed) counties financial participation is fixed at 12 mills with shortfalls made up by the state. Montana made up six million dollars in FY87 for the twelve assumed counties.

<sup>35</sup>See Office of Budget and Program Planning (OBPP) report contained in Appendix I.

<sup>36</sup>See the discussions of Elizabethan and Poorhouse Era funding and operation of relief efforts contained earlier in this report. Considerable Task Force discussion and presenter comments testify to the continuing difference of opinion on this issue.

Lines of responsibility and administrative authority in Montana appear confusing because statute dictates that welfare departments are "state-supervised" but "county-administered."<sup>37</sup> Statewide, the system has been the subject of confusion because some counties are state-supervised and county-administered and others are fully supervised and administered by the state but still jointly funded by both.<sup>38</sup>

In recent years authority for administrative oversight was strengthened to unite local decision-making on daily expenditure of federal funds at the county level with the accountability for overall error and budget management at the state level. Still, in most counties (non-assumed), county welfare boards and county directors control only county general assistance and county medical assistance. The state exercises no legal control over the non-federal programs in the locally-administered offices it supervises. Lines of authority and accountability appear questionable and are questioned by the public.

The Task Force asked that staff and the Office of Budget and Program Planning (OBPP) identify the cost to Montanans of providing all human services for fiscal year 1987 (FY87), the cost of state-administering (assuming) and state-supervising (de-assuming) counties, and the cost of operating regional services.

The Office of Budget and Program Planning prepared a study of:<sup>39</sup>

1. costs for general assistance (GA) and GA medical by county for FY87;
2. mill levies currently being levied by each county for such services;

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<sup>37</sup>Title 53, Chapter 2, Sections 305 and 306, Montana Codes Annotated, 1987.

<sup>38</sup>Title 53, Chapter 2, Section 811-813, Montana Codes Annotated, 1987.

<sup>39</sup>See Appendix I for a complete copy of this report.

3. estimates of the cost for the state to assume GA and GA medical in all counties;
4. the cost for the state to assume all poor fund costs in all counties.

Funding options were a statewide property tax and a regional property tax (using 12 regions established by Executive Orders 2-71 and 7-73). An estimate of costs associated with de-assumption of county welfare was also prepared.

The amount expended by counties, the state and federal governments for human services in Montana for FY87 was identified. Programs from the five human service agencies and special education of the Office of Public Instruction were included. Adult corrections, environmental programs, worker's compensation, unemployment insurance and federal grants that flow directly to counties were excluded.

GENERAL ASSISTANCE:  
RESPONSIBILITY, STANDARDS, FINANCING, BENEFITS, AND  
ADMINISTRATION

The Task Force recommendations on uniform funding address the following three objectives in the Governor's executive order: a. assign responsibilities for the administration of human services, b. simplify multiple funding arrangements between the state and local governments, and c. provide for equitable funding among counties, as well as between local governments and the state.<sup>40</sup>

The Task Force broke the problem of uniform funding into four issues: a. overall responsibility for general assistance, b. eligibility standards and needs, c. financing, d. benefits and administration. The answer to the first issue is central to deciding the others.

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<sup>40</sup>See Executive Order No. 15-87, Appendix I.

1. Who is responsible for general assistance - state or local government?

Caring for the poor is a moral and social obligation shared by all citizens of the state. Localities share in the responsibility for their poor but the courts have said county residence is not to be a factor in determining eligibility for assistance.

Montana's Constitution calls for the state to provide assistance to those in need. The constitutional mandate, the need for equal and consistent eligibility determination and comparable benefits in all counties place the final responsibility on the state.

General assistance and general medical assistance is determined to be the responsibility of the State of Montana.

2. Who sets eligibility standards - state or local government?

In order to withstand court tests and to ensure fairness and uniformity, eligibility standards and determination of the needs to be met (e.g., food, clothing, shelter and emergency medical) must be established by the state.

It is the responsibility of the State of Montana to set eligibility standards for general and medical assistance and to determine what basic needs will be met by this relief.

3. How shall financial obligations for general assistance be distributed?<sup>41</sup>

Funding for general assistance now places the largest burden upon the urban counties. Rural counties levy lesser amounts - in a few cases less than one mill. Concern has been expressed for rural individual (non-corporate) land-holders and the impact equalization may have upon them. Recommendations to equalize funding among counties or to simplify funding arrangements between counties and the state may be resisted or be seen as idealistic at the present time. Yet, the Task Force believes that a more uniform and equal plan for funding assistance must be available for implementation in order to prepare Montana for the possible impacts of CR-18<sup>42</sup> and the court testing that could follow. Also, the Task Force believes that its recommendations on financing assistance will be seen as more realistic if court challenges occur in the counties that do not have a state-administered general assistance program.

Because general assistance is a state responsibility, the Task Force believes that its funding should also be the responsibility of the state. Ideally, assignment of costs should be based upon a limited contribution by the state general fund plus contributions by each county. County contributions should be based upon taxable valuation of land, such as now occurs with the university mill levy or some other formula system for funding relief that results in equalization. In the present funding arrangement for state-administered county assistance programs, part of the funding comes from the general fund and is combined with 12 mill county levies. The Task Force recommends that the general fund contribution be continued as a way to reduce the impact upon rural areas, some of which would see a tax increase with equalization.

Distribution of the financial obligation for public assistance should require equal contribution by all counties through a statewide levy, plus an amount from the state general fund.

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<sup>41</sup>The Task Force recognizes both the obligation of local charitable organizations and programs to assist Montanans in need and their significant contribution to this cause.

<sup>42</sup>CR-18 is Constitutional Referendum 18.



4. Who determines benefit levels and who administers public assistance - state or local government?

The general assistance obligation of the State of Montana is defined in the state's constitution: to "provide such economic assistance and social and rehabilitative services as may be necessary for those inhabitants who by reason of age, infirmities, or misfortune may have need for the aid of society."<sup>43</sup> Recommendations one and two satisfy this obligation. The cost of providing uniform basic needs, however, will vary in each locality.<sup>44</sup>

Local governments and welfare staff are familiar with shelter, food, and clothing costs in their localities; local welfare boards or the regional councils recommended in Chapter V should be used to plan and recommend benefit levels annually to the state.

Localities should set levels of general assistance according to prevailing local costs. The State of Montana should provide justification for amendments to local benefit-level recommendations.<sup>45</sup>

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<sup>43</sup>Article XII, Section 3(3) Montana Constitution.

<sup>44</sup>The Task Force provided for this variance in its recommendation on levels of assistance found on page 27.

<sup>45</sup>Benefit levels should be coordinated among adjacent counties to prevent disparities in assistance that would be unfair or would encourage migration of recipients. However, the Task Force believes that a medical emergency should be defined uniformly in all counties and should not be subject to different levels of payment or applicability. The Task Force regrets that there was not enough time to study medical relief, preventive medical care and cost containment. Such a study should be undertaken separately.

Local control of programs is a key factor in deciding who should determine benefit levels and administer general assistance. Behind the terms "local control" there are five areas of concern regarding state and local administration of assistance: (1) cost, (2) control of personnel, administrative policy and daily practice, (3) uniformity and consistency, (4) legal responsibility and (5) financial responsibility.

As described by some Task Force members, local control includes making personnel decisions and being accountable to local citizens who need help or who complain about administration or policy. In state-supervised (non-assumed) counties, local commissioners meet as a welfare board monthly to review and approve or deny individual general assistance benefits and vendor payments. Local government involvement in individual cases has existed since 1865 (Veeder, 1937). In state-administered counties (assumed), commissioners report that they are still consulted about appointments of county directors and meet as a board to consider local concerns, but this occurs without the same level of final authority.

An ongoing difference of opinion in discussions about local administration revolves around program costs.<sup>46</sup> To some, the fact that state-supervised (non-assumed) counties spend less per client for general or medical assistance is a sign of good management and better matching of benefits to actual needs. To others, it is a sign of inconsistency, assistance unfairly withheld and unequal protection.

Of the five areas of administrative concern for local governments noted above, legal responsibility, uniformity and financing are addressed by the first three recommendations of this chapter. These clearly place constitutional, program and financial responsibilities with the state. The Task Force notes that the confusion over accountability and responsibility for welfare programs (pps. 37-38) is related to dual lines of administrative and benefit authority and the separation between locally-administered and state-administered assistance programs.

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<sup>46</sup>The Interim Subcommittee on Welfare discussed this issue at length during their June 6, 1988 meeting.

This confusion is directly related to the remaining areas of concern - program costs, control of personnel, administrative policy and practice.

The Task Force finds that administrative authority should not be separated from constitutional, program and fiscal responsibilities.

Concern about cost control and review of individual needs can be resolved by paying the initial month of assistance based upon documented expenses or documentation of anticipated expenses. Valid complaints that question the actual need of individual recipients can be similarly resolved by requiring short-term documentation during later months of assistance. Questions about whether an individual is personally or morally deserving of assistance based upon past work behavior or similar factors cannot be decided in a manner that would give equal protection or consistent administration of benefits for each case.

During the first month of general assistance, or as necessary, benefits should be paid based on documentation of existing or anticipated expenses.

The system of paying for general assistance should ensure that funds pay for food, shelter, clothing and personal care items.<sup>47</sup>

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<sup>47</sup>The Task Force discussed voucher and direct payments to vendors. Public comment was against a voucher system. It was decided that concern would be stated without specifying a preference for one method. The Task Force discussed the possibility of allowing local administrative plans to determine the most appropriate payment method.

A close relationship between local government and local program administrative staff is necessary to enhance program credibility and accountability.

In order to foster local government involvement while unifying administrative, program and fiscal accountability, the Task Force recommends that:

(1) all county commissions or regional coordinating councils (pps.46-49) select county welfare directors from a list, provided by SRS, of the top qualifying applicants;<sup>48</sup>

(2) local directors work with county commissioners or regional coordinating councils to prepare and submit annual plans for local human service office administration, office policy and practice.

The state should be obligated to honor local plans except where contrary to policy or other cause is identified.

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<sup>48</sup>Presently only state-supervised counties receive a list of the top three county director applicants from the SRS personnel office. They choose their local directors from this.

## CHAPTER V MULTI-COUNTY COORDINATION

By the late 1960's and early 70's, centralized services were seen as too large and unresponsive in Montana and elsewhere (Hargesheimer, 1977). They were growing dramatically, and were considered costly and ineffective. Continued growth made centralized services seem self-serving. Caseloads were expanding, institutions overcrowded and efficacy questionable.

Both Johnson and Nixon administration legislation favored community-based approaches to social problems. Numerous lawsuits forced states, including Montana, to begin deinstitutionalization. By 1975, local control, non-profit providers, deinstitutionalization, foster care and group homes were the solution to centralization and over-reliance on institutional services.

In ten years (1971 to 1981), Montana developed an infrastructure of community-based services for children and youth, the developmentally disabled, abused spouses, chemically dependent, the aged and low-income people. Urban areas offered more volume of services but not a larger array.

Many factors have combined to ensure a state and federal trend towards regional administration and delivery of government services. The frustration of citizens unsuccessfully trying to effect change at a national level has spread to a state, and, in some cases even a county level (Megatrends, 1982; Seel, 1987). The inability to control human service costs at a federal level has led the Reagan administration to suggest returning welfare to state and local control wherever possible (H.R. 3200, Up From Dependency, 1986) and has led Democrats to propose significant revisions in welfare laws (H.B. 1720 and S.B. 1511). Court challenges of social programs are likely to require a continuing strong state role in services, while unpopular services such as general assistance, or unavailable services will lead to more and more calls for local control. However, local control is hollow when local resources are insufficient.

The demand for more services in a time of diminishing resources has caused local governments to look to the state for help, while causing the state to look to local providers for increased cost-effectiveness. The proliferation of community-based services has stretched the limits of the system but their effectiveness dictates some form of continuation. State efforts to control costs through assumption of welfare have been frustrated due to court-mandated benefit levels and declining revenues.

Some alternative regional models already exist in Montana and elsewhere. Both centralization and decentralization have been unable to respond to emerging needs. Federal and state welfare reform activities in the past year have set the stage for new experiments in human service delivery.

The Task Force asked that staff prepare options for better coordination and delivery of human services on a multi-county basis.

For the first Task Force meeting, staff prepared brief outlines of most human services now available in Montana. Information was provided on the development and roles of local, state and federal governments in assigning human service and other responsibilities. Later, staff prepared an analysis of regional models in use now in Montana and other states. This includes a review of present responsibilities for delivery, policy and management of services in Montana. From this, staff developed four options for Task Force consideration: a coordination model, a consolidation model, an administrative change model and a private non-profit or contracted services model.<sup>49</sup>

The State of Montana should adopt the coordination model for multi-county administration of services.

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<sup>49</sup>Appendix I.

## THE COORDINATION MODEL - THE REGIONAL COORDINATING COUNCIL

The option for local governments and the state to establish Regional Coordinating Councils should be created by the legislature and implemented through interlocal agreement of all counties in a designated area or region.

Council members should be appointed by the governor and county commissioners. Members should not be providers of human services.

The Regional Coordinating Council should serve as an advisory committee to local and state human service agencies on how to improve local services.

### PURPOSE AND ROLE

Councils should coordinate human services in their areas by:

- (1) reviewing area plans submitted to state and federal government;
- (2) preparing annual plans and recommendations for increased coordination of local services;
- (3) preparing a plan for long-range consolidation of support services (e.g., office space, clerical, equipment, transportation, etc.) for local programs;<sup>50</sup>
- (4) contracting with state agencies for the administration of interagency projects, staff and facilities;
- (5) directly administering small programs that cannot be efficiently administered by a separate organization

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<sup>50</sup>Administrative consolidation would not be mandated or prohibited.

## IMPLEMENTATION

Although councils would require staff to carry out planning, coordination and administrative duties, savings would accrue as a long-term outcome of the five activities outlined above.

Since the Councils would exist by virtue of interlocal agreements, it is hard to predict if, or when, each region would elect to create a council. Approximately six months lead time would be required for establishing, preparing and staffing a council.

Planning for optional support service consolidation would be an ongoing process. It is unlikely that significant changes would take place during the first year of operation; some might require several years. For example, creating a single point of service entry, even in a small community, could require incremental consolidations over several years, but sharing a receptionist or a vehicle for travel to outlying communities could be accomplished more quickly and easily.

State human service departments should administratively support regional coordination.
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The Task Force believes that requests for administrative changes will follow implementation of the Regional Coordination Model. Such changes could facilitate multi-county coordination and improve availability, quality and/or cost-effectiveness of services. The Task Force recommends implementing those features of the Administrative Change Model that would support the Regional Coordination Model.



ADMINISTRATIVE CHANGE MODEL<sup>51</sup>

At the request of Regional Coordinating Councils, implement by executive order and administrative directive, those features of multi-county or regional coordination and service delivery that are allowable under existing statute. These features include decentralized decision-making; hiring and budget authority; consolidated functions and services through interdepartmental agreements; reviewing and monitoring local contracts and service delivery.

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<sup>51</sup>Appendix I.

## CHAPTER VI

### CONSOLIDATING CERTAIN STATE ADMINISTRATIVE SERVICES FOR THE DEVELOPMENTALLY DISABLED

Others have pointed out that administration of services for individuals with developmental disabilities is fragmented<sup>52</sup> - community-based services are in Department of Social and Rehabilitation Services; institutional services are in Department of Institutions; case management and protective services are provided by Department of Family Services. Consolidation has been recommended before, but advocates, parents, service providers and departmental staff have been, and remain, reluctant to support change. While acknowledging a problem, participants fear consolidation could reduce program status and integrity, planning, financing, staffing patterns and lines of authority.

Montana has moved beyond the deinstitutionalization movement of the 1970's<sup>53</sup> and recognizes the need for both community and institutional-based services. The problem is each operates under separate administrative, planning and funding structures and both are separate from the agency with statutory authority for case management and protection of the developmentally disabled - Department of Family Services. Separate legislative committees review budgets for institutions, community-based services, case management and protective services.

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<sup>52</sup>Developmental Planning Task Force, Dec., 1986; House Bill 909 Council; SRS Disability Task Force.

<sup>53</sup>Refer to Chapters III and V for a discussion of history leading up to this.

There is no line of central authority either through the legislature or in the executive branch. Decisions made in local client planning meetings (IHP's)<sup>54</sup> are frequently contested up through regional, division and departmental levels, with each party convinced that they are acting in the best interests of the client. The possibility of reversing an administrative decision is always present at the next higher level. Hence, there are built-in rewards for threatening to grieve and for developing staying power in the grievance process. One person pointed out that only the governor has authority to resolve differences within the service system for the developmentally disabled.

The Task Force asked staff to prepare option papers for consolidating DD administrative functions within the Departments of: Family Services, Social and Rehabilitation Services or Institutions.<sup>55</sup> OBPP prepared estimates of the costs of consolidating these functions.

A study group of agency representatives, service providers, advocates and advisory council members developed the three options, identified the strengths and weaknesses of each and listed general steps for implementation. The Office of Budget and Program Planning, with agency representatives, prepared a fiscal impact statement on consolidation. The Task Force adopted the following:

State-level administrative functions for institutions and community-based services serving individuals with developmental disabilities should be consolidated in the Department of Family Services by July 1, 1990, as part of a larger community-based services consolidation.

Authorization should provide for a one-year transition during the first year of the biennium starting July 1, 1989.

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<sup>54</sup>IHP's are Individual Habilitation Planning meetings. These are required by federal and state regulation every six months for individuals with developmental disabilities.

<sup>55</sup>Each option paper is contained in Appendix I.

## CAVEATS

1. Developmental Disabilities Division (DDD) must revert to a five-region structure from its present three-area configuration; this will reinstate a strong regional concept with five regional managers and shared boundaries with DFS regions.
2. The administrator of DDD should be someone with training and experience in providing services to the developmentally disabled.
3. Overhead services now provided by SRS to DDD should also be funded and staffed at equal levels by DFS.
4. Division staff should maintain a separate identity and functions from other DFS programs.
5. The division should remain a separate administrative entity with an unbroken line of authority and supervision from the division level to the five regional offices to individual staff.
6. The division should continue to be the single source for central program planning and resource allocation.
7. The division should maintain sole responsibility for planning, contracting, purchasing, monitoring and developing services for individuals with developmental disabilities.
8. The division should maintain responsibility for all state and federal resources for services to individuals with developmental disabilities.

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## APPENDIX I



## TABLE OF CONTENTS

1.	Executive Order No. 15-87	Page 4-6
2.	Summary of Public Testimony	7-9
3.	Human Services and General Assistance Policy Definitions	10
4.	Proposal/Initiative Summaries	11-18
5.	Comparison of Federal Welfare Reform Bills	19-24
6.	Selected State Welfare Reform Programs:	
	--Work Incentive Program: Montana	25-27
	--ET Choices: Massachusetts	28-30
	--GR Choices: Massachusetts	31
	--GAO Study of 38 States	32-35
	--Job Search and Work Experience: Cook County, Illinois	36-37
	--Options: Baltimore, Maryland	38-41
7.	Synopsis of County Funding of Public Assistance, Lois Steinbeck	42-49
8.	Caseload and Cost Growth Graphs	50-55
9.	Job Service Study of GA Job Search Participants	56-68
10.	Legal Opinion: Fundamental Policy Statement	69-70
11.	Wisconsin Welfare Reform/Child Support Assurance	71-105
12.	Alternative Funding Sources for Selected Options of State Assumption of County Welfare Programs, Lois Steinbeck	106-111
13.	General Assistance Programs in Other States	112-130
14.	Presentation by Russ Cater on Constitutional Amendment Referendum, 9/23/87:	
	--Presentation Outline	131-133
	--Comments from Montana Constitutional Convention, 1971-1972	134-136
	--Article XII	137
	--House Bill 637	138-143
	--News Article	144
15.	Legal Opinion: County Liability	145-146
16.	Regional and Multi-County Options	147-153
17.	"The Real Zero Option: A Few Words in Defense of the Status Quo"	154-155

## Table of Contents (cont.)

18. Legal Opinion: Contracting of Public Assistance Services	156-158
19. Legal Opinion: Regionalization of Health Services	159
20. Montana Social Welfare Programs - 1987, Linda Shearer	160-164
21. Matrix of Responsibility	165-166
22. Developmental Disabilities Consolidation Proposals:	
--Department of Institutions	167-170
--Department of Social and Rehabilitative Services	171-174
--Department of Family Services	175-180
--Suggestions for Consensus-Building	181
--General Agency Costs, George Harris and Lois Steinbeck	182
23. Presentation to Task Force: Dr. James Lopach, August 11, 1987	183-186

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STATE OF MONTANA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER NO. 15-87

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EXECUTIVE ORDER CREATING THE  
HUMAN SERVICES ADVISORY COUNCIL ALSO KNOWN AS  
THE HUMAN SERVICES DELIVERY TASK FORCE

---

WHEREAS, the state has constitutional responsibility for welfare and human services, and preventive programs, resources and legal authority are generally controlled by local officials or local boards; and

WHEREAS, there is general agreement that programs, in order to be responsive, should be community based; and

WHEREAS, there is a need to develop general policy and design to bring accountability to the service system.

NOW, THEREFORE, I, TED SCHWINDEN, Governor of the State of Montana, by virtue of the authority vested in me pursuant to the Constitution and laws of the State of Montana, specifically Section 2-15-122, MCA, do hereby create the Human Services Advisory Council also known as the Human Services Delivery Task Force.

I. PURPOSE

The Council shall, in conjunction with state human service agencies and local governments, undertake a study of the human service delivery system and all human services programs. The study will result in recommendations that would accomplish the following objectives:

- a. provide general recommendations on the division of state and local government responsibilities for the administration of human services.
- b. provide a structure for multi-county administration or coordination of human service programs.
- c. simplify the multiple funding arrangement that exists between the state and local governments for human services.
- d. provide for equitable funding among counties, as well as between local governments and the state.
- e. ensure representation for local governments on boards for human service programs.

The Council shall present its recommendations to the Governor by September 15, 1989.

## II. COMPOSITION

The following members shall serve terms of two years and at the pleasure of the Governor:

Charles Butler, Jr., Vice Pres.  
Blue Shield/Cross of Montana  
404 Fuller Avenue  
Helena, MT 59601

Tom Crosser  
Box 355 Lump Gulch  
Clancy, MT 59634

Dr. John Drynan, Director  
Department of Health and  
Environmental Sciences  
Cogswell Building  
Helena, MT 59620

Stephen L. Fenter, Mgr. (Chairman)  
Dougherty, Dawkins, Strand  
& Yost  
Box 761  
Billings, MT 59103

Richard "Dick" Gasvoda  
Cascade County Commissioner  
County Courthouse  
Great Falls, MT 59403

Gail Gray, Director  
Department of Social &  
Rehabilitation Services  
SRS Building  
Helena, MT 59620

A.R. "Toni" Hagener  
Hill County Commissioner  
County Courthouse  
Havre, MT 59501

Peg Hartman, Commissioner  
Department of Labor & Industry  
Capitol Complex  
Helena, MT 59620

Senator Mathias A. (Matt) Himsel  
305 4th Avenue E.  
Kalispell, MT 59901

Eugene F. Huntington, Director  
Family Services  
SRS Building  
Helena, MT 59620

Alfred Kaschube  
Roosevelt County Commissioner  
County Courthouse  
Wolf Point, MT 59201

Katharin A. Kelker, Chairperson  
Billings School Board  
2210 Fairview Pl.  
Billings, MT 59102

Representative Ron Miller  
513 52nd Street South  
Great Falls, MT 59405

LaNelle E. Peterson  
Pondera County Commissioner  
County Courthouse  
Conrad, MT 59425

Carroll South, Director  
Department of Institutions  
1539 Eleventh Avenue  
Helena, MT 59620

Jim Smith, Executive Director  
Region VIII Community Action  
Agency Association  
Power Block Bldg.  
Helena, MT 59601

Representative Gary Spaeth  
Box 193  
Joliet, MT 59041

Janet Stevens  
Missoula County Commissioner  
County Courthouse  
Missoula, MT 59801

Senator Eleanor Vaughn  
P.O. Box 45  
Libby, MT 59923

### III. TRAVEL

Council members eligible for compensation under 2-15-122(5) shall be compensated \$25 for each day actually and necessarily engaged in performance of Council duties. All Council members who are not full-time state employees shall be reimbursed for travel expenses pursuant to 2-15-122(5). The Department of Social and Rehabilitation Services, Labor and Industry, Family Services, Institutions, Health and Environmental Sciences and the Governor's Office shall each pay one-sixth of Council disbursements for compensation and expense reimbursement.

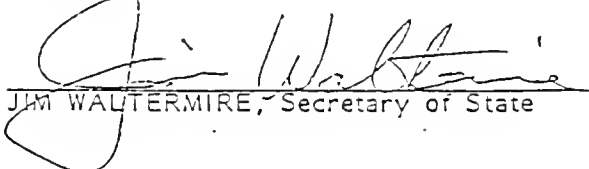
### IV. DURATION

This Order is effective as of July 1, 1987 and shall expire effective July 1, 1989.

GIVEN under my hand and the GREAT SEAL of the State of Montana, this 22<sup>nd</sup> day of August, in the year of our LORD, one thousand, nine hundred and eighty-seven.

  
TED SCHWINDEN, Governor

ATTEST:

  
JIM WALTERMIRE, Secretary of State

# PUBLIC TESTIMONY - HUMAN SERVICES DELIVERY TASK FORCE

## Meetings:

Great Falls, June 24, 1988  
 Kalispell, June 27, 1988  
 Missoula, June 27, 1988  
 Billings, June 29, 1988  
 Glendive, June 30, 1988  
 Butte, July 1, 1988

Total Attendance: 202

## Testimony on Human Services Policy and Welfare Reform:

(Number of persons presenting oral/written testimony: 45)

1. Require AFDC/GA recipients to participate in training and/or education services: 15 persons
2. Provide more work and/or entrepreneurial opportunities for recipients: 14 persons
3. Provide work incentives (i.e. raise earnings disregards): 11 persons
4. Provide extended medical (including preventive) services and daycare: 9 persons
5. Provide financial aid for education and/or training and allow recipients to continue receiving benefits: 7 persons
6. Raise AFDC benefit levels: 6 persons
7. Toughen child support laws: 6 persons
8. Recipient representation on the Task Force is inadequate: 5 persons
9. Do not support the Constitutional Referendum: 4 persons
10. Provide the Hard-to-Employ pilot program: 3 persons
11. Do not allow the use of vouchers: 3 persons

Two of those submitting testimony on this issue mentioned one or more of the following:

- Cut administrative costs
- Provide varying levels of GA benefits
- Provide chemical dependency services
- Provide transportation as a transitional benefit

One person each mentioned one or more of the following:



- Increase the minimum wage
- Curb welfare abuse
- Make schools more effective
- Do not use varying GA benefit levels
- Provide parent training
- JTPA performance-based programs are incompatible with the Hard-to-Employ pilot
- Clarify the scope of Task Force responsibility
- Maintain recipient confidentiality
- Maintain current funding levels
- Change Food Stamp/AFDC eligibility rules
- Keep AFDC-UP
- Implement the "working poor" pilot project
- Do not require a "quick" return to self-sufficiency
- Exempt primary care givers from program requirements
- Assure work program participants equitable compensation
- Make the federal government pay for expanded services
- Speed up the welfare process
- Require a GA Med co-payment

#### Testimony on Uniform Funding for General Assistance:

(Number of persons presenting oral/written testimony: 23)

1. Do not assume all counties: 14 persons
2. Do not require uniform funding: 9 persons

Two of those submitting testimony on this subject mentioned one or more of the following:

- Require equal county shares
- Be specific on funding needs
- De-assume all counties
- Equalize services among counties

One person each mentioned one or more of the following:

- Assume all counties
- Prevent intrastate migration of GA recipients
- Base the equalization formula on population

#### Testimony on Multi-county Coordination:

(Number of persons presenting oral/written testimony: 5)

1. Clarify the relationship between coordinating councils and the eleven Area Agencies on Aging: 2 persons

One person each mentioned one of the following:

- Use regional offices to reduce bureaucracy
- Coordinated services are necessary
- Coordinating councils must be fully accountable and legally liable

Testimony on Consolidation of State-level Administration of Institutions for the Developmentally Disabled and D.D. Community-Based Services:

(Number of persons submitting oral/written testimony: 30)

1. Support the Task Force minority report in its entirety: 17 persons (Includes the following:)
  - Consolidate state-level administration of d.d. institutions and community-based services
  - Combine all community-based services in one state agency
  - Maintain the integrity of the D.D. Division (five area managers, experienced administrator, adequate support services, parallel regional structure, sole responsibility for funds and other resources)
  - Phase-in consolidation over two-year period
2. Do not consolidate in Department of Family Services: 9 persons
3. Specifically, consolidate state-level administration of d.d. institutions and community-based services: 5 persons

Two of those submitting testimony on this issue specified one of the following:

- Maintain D.D. Division intact administratively and financially
- Allow adequate planning time before moving D.D.D. to DFS

One person each specified one of the following:

- Retain adequate support services for D.D.D.
- Do not consolidate state-level administration of d.d. institutions and community-based services.

Testimony on Other Subjects:

(Number of persons submitting oral/written testimony: 6)

1. Move Community Mental Health to DFS: 4 persons
2. Increase the Medicaid reimbursement rate to service providers, and allow them a charitable donation tax deduction for Medicaid work: 1 person
3. Provide an Ombudsman for the elderly to prevent relatives assuming guardianship prematurely: 1 person

## HUMAN SERVICES AND GENERAL ASSISTANCE POLICY DEFINITIONS

New section. Section X. Definitions. As used in [sections y through z (iii)], the following definitions apply:

(1) "Basic survival" means maintaining day to day health sufficient to avoid medical danger to life or limb; and maintaining food intake sufficient to ensure livelihood; and maintaining shelter and clothing sufficient to protect oneself from the elements and thereby to protect life and/or limb.

(2) "Those who cannot provide for themselves..." means those persons who by reason of age, mental or physical infirmity or misfortune are now, or are likely to be, in danger of damage to life or limb as a result of hunger, medical need, or lack of clothing or shelter to protect themselves from the elements.

(3) "Protection of persons" means protection of persons from danger to life or limb.

(4) "Protection of property" means protection of real property as provided for in the criminal codes, RCM.

(5) "Protection of the environment" means protection of land, air and water quality as provided for in RCM \_\_\_\_\_.

(6) "Self-sufficiency" means the economic ability of an individual to purchase the means for basic survival.

(7) "Independence" means the ability of an individual to exist without relying upon public or private programs of relief or assistance to ensure basic survival.

(8) "Administering agency" means any agency, department of government or other provider as assigned or contracted by the State of Montana to administer economic relief, assistance and related programs.



## PROPOSAL/INITIATIVE SUMMARIES

### Welfare-to-Work:

1. Montana Displaced Homemaker Network -- One or two "welfare reform" pilot project locations testing:

1. mandatory vs. voluntary participation
2. unification of services with multiple funding sources
3. grant diversion for on-the-job-training
4. reduction in youngest child age requirement to 3 years
5. increased AFDC participation in Displaced Homemaker Programs
6. performance-based 2-4 yr. training
7. interagency cooperation
8. 10% payback basic AFDC grant

Items 1, 3, 4, 5 and 8 require waivers. Funding would come from Food Stamp monies, New Horizons Transitional Childcare and increased child support collections.

2. YWCA/Women in Transition -- Non-traditional work training:

1. remedial math and reading
2. body-building
3. self-esteem and personal development
4. long-term follow-up
5. day care assistance
6. entrepreneurial support system

Trainees could rehabilitate public housing and provide low-income weatherization. Possible entrepreneurial efforts could include millwork and textile manufacturing.

3. Agency -- Restructure "the expectations and obligations of recipients and the state....a more help-oriented and consequence-based system of administration of assistance is needed....the Task Force should undertake a study of assistance policy options which reflect the most current and promising advances in emancipation of clients from public welfare programs." Final policy recommendations should encompass:

1. removal from immediate dependency
2. mutual obligation
3. disruption of generational welfare chain
4. family obligation
5. prevention.

4. Anonymous -- Discontinuation of public assistance programs. Wage-paying jobs provided by private sector (if possible) or government, available to all who apply (no means test). Liveable wages with taxes, social security and medical insurance deducted. Training programs available to those with appropriate motivation and ability, but only in areas where jobs actually exist. Provisions made for disabled and elderly.

5. Anonymous -- Revive County Poor Farm. Pay Workfare benefits upon work completion. Form Welfare Job Corps for childless, able-bodied GA applicants. Give working AFDC recipients higher benefits than non-working. Provide training scholarships for AFDC recipients. Give State Income Tax credit to those employing GA recipients. Exploit Federal Targeted Jobs Tax Credit. Expand resume and job application preparation assistance. Make bus tickets to low-unemployment cities available. Initiate campaign to "Hire a Welfare Recipient". Develop welfare recipient sponsor program. Post "Jobs Available/Jobs Wanted" in County Offices of Human Services. Pay bounty to anyone finding job for welfare recipient. Provide training, start-up funds and support for AFDC recipients to open day care centers. Develop VISTA-type volunteer service model. Arrange unpaid or underpaid apprenticeship/training programs. Allow welfare recipients to receive the value of their production, regardless of minimum wage laws.

6. Women's Opportunity and Resource Development, Inc. -- Department of Commerce promote self-employment opportunities for welfare recipients. Establish a St. Paul WEDCO-type model project for selected recipients. Propose regulation changes to:

1. remove restrictions on deducting business expenses from revenue before determining income
2. prevent counting business assets as personal assets
3. allow profit re-investment to build cash reserve
4. allow deduction of unsecured business loans
5. change reporting period

Allow recipients to generate income to replace any or all benefits. Support loan fund creation.

#### Agency Organization, Service and Delivery:

1. Montana HRDC Directors' Association -- Use the Tri-Parte Board of Directors structure to ensure local government representation and to administer and coordinate multi-county human services programs. Simplify multiple funding arrangements by placing administration and operation with HRDC's.

2. Delores Shelton, Montana Association of County Directors  
 -- Talk with line workers. Develop administrative and supervisory structures six months to one year before implementation. Use pilot projects. Apprise staff of their roles. Develop rules, policies, procedures and appoint boards before implementation of new agency. Establish location and availability of physical plant and supplies before implementation. Finance DFS with state income tax. Do 2-4 year study of DFS' fiscal and program efficacy. Make basic emergency services available and accessible to all citizens. Develop jobs. Include rural counties in meaningful work and training programs. Use individual and family counseling to address employment barriers. Develop community-based services, especially for youth. Expand and coordinate preventive services. Retain state supervision/county administration and dual funding. Funnel federal programs through a single state agency.

3. Bonnie Mueller/Linda Dillard: Create Department of Human Services:

1. Dept. of Employment with Division of Work Programs (GA; Food Stamp Job Search, job preparation and placement; WIN and Voc. Rehab.) and Division of Unemployment Compensation.
2. Dept. of Family Services with Division of Aging, Child Protective Services, Pine Hills/Mountain View, Juvenile Probation, Dev. Disabled Division, Family Planning Services, Mental Health, CAP Agencies, Montana State Hospital, Montana Developmental Center, all counseling services.
3. Economic Assistance Division with Medicaid, AFDC, Food Stamps, Energy Assistance, WIC.
4. Audit, Investigation and Collections Division with Audit, Child Support Enforcement Investigation and Collection, Welfare Fraud Investigation, collection of other funds.

Provide central office in Helena with regional offices in five current regions, district offices and local offices. Use generic workers in low-population counties, and specialized workers in a single location for higher-population counties. Share management, staff, equipment, supplies, vehicles, computers, support services.

4. Graydon Moll, Montana Association of Independent Disability Services -- Don't change D.D. services delivery system. Administer all institutional and community D.D. services through one state agency. Provide case management

through that agency. Support further de-institutionalization. Use regional service center model.

5. Agency -- Merge D.D. institutions with D.D. Division. Move D.D. Division to DFS.

Organize services into common geographic regions. Counties create one organization through inter-local agreements to administer and coordinate state programs at local level to accomplish:

1. Coordination of human services programs in region.
2. Administration of interagency programs (i.e., Project Work), rural multi-service workers and joint intake centers.
3. Direct administration of small programs.

6. Anonymous -- Provide state-wide coordinator of child abuse/neglect prevention activities.

7. Anonymous -- Look at Washington State human services tracking/monitoring system. Build in method to evaluate human services system's effectiveness.

8. Anonymous -- Put Economic Assistance Division and Job Service under common administration.

9. Anonymous -- Caveat regarding reorganization.

10. Anonymous -- Avoid turmoil of DFS-type transition. Train DFS staff in budget and administration issues. Avoid multi-county administration.

11. Anonymous -- Do not create "super" agency. Make DFS functional and give it time to develop competency. "Fine tune" Economic Assistance Division. Continue to administer funds in combination of federal/state/county procedures. Allow county control of AFDC, Medicaid, GA, County Medical. Make state administration positions non-appointed.

12. Anonymous -- Return GA administration to counties. Do not establish multi-county administration of services. Provide multi-county supervision. Leave funding and representation as is. Provide state supervision, knowledge and training to counties.



13. Anonymous -- Eliminate County Directors; provide Regional Directors. Make GA eligibility and work registration uniform state-wide. Coordinate Job Service and county welfare office activities.

14. Anonymous - Put youth court probation officers into DFS. Put D.D. group home, day care and residential treatment program licensure into Dept. of Health. Create Dept. of Disabilities and transfer D.D. case management into it.

15. Anonymous - Put juvenile probation officers into DFS.

16. Anonymous - Consolidate county welfare offices.

17. Anonymous - Create Dept. of Health and Human Services:

1. Administrative Support Services Division
2. Health Services Division (all health services now provided by DHES and SRS)
3. Institutional Services Division (all except Adult Correctional Facilities)
4. Environmental Services Division
5. Rehabilitative Services Division (Voc. Rehab., Vis. Services)
6. Economic Assistance Division (AFDC, GA, SSI)
7. Community-based Services Division (D.D., C.A.N., APS, Aging, Community Mental Health, juvenile probation and parole, Veteran's Affairs, refugee, WIN, foster care, adoption)

Dept. does all budgeting, contracting, planning and policy-making. Each division has a planning and advisory council. Secure county funds for departmental use.

18. Anonymous - Eliminate State Assumption. Interview frontline workers.

19. HB 538, 50th Legislative Session - Reorganize human services:

1. Youth and Family Services (battered spouse, adoption, youth institutions, child abuse and neglect, child trust fund, day care licensure, adult protective services, aging services)
2. Rehabilitation Services (Voc. Rehab, D.D., D.D. institutions, mental health, alcohol/drugs, prisons, parole)

3. Labor and Industry (AFDC, Food Stamps, GA, Med. Assistance, CSBG, LIEAP, JTPA, Job Service, Unemployment Insurance)
4. Health and Medical Services (Medicaid/waiver, renal treatment, Veteran's Home, existing programs)

20. Anonymous phone/in-person proposals - Combine Workers' Comp., Voc. Rehab., Unemployment Compensation, Job Service, JTPA, Project Work, AFDC, Food Stamps and/or GA into one department.

Provide one-stop service centers, including all programs funded in part or wholly by state and federal monies.

Move mental health, chemical dependency and D.D. services to DFS.

Move mental health and chemical dependency to DHES. Create 5-7 multi-county health services regions.

Move Community Development Block Grants and Passenger Transportation Bureau to SRS.

Regionalize chemical dependency programs.

Consolidate mental health and D.D. services. Arrange for transition process and monitoring structure. Standardize regions and decentralize staff.

#### Policy, Benefits and Eligibility:

1. Pam Marshall - Remove WIN regulations forcing acceptance of low-paying jobs and mandatory work requirements for recipients in school. Provide child care and health care for recipients in training or school. Remove benefit reduction disincentives. Make regulations uniform statewide. Pay child support to the Clerk of Court. If in arrears, forward the case to Dept. of Revenue. Utilize mandatory wage garnishment for all non-custodial parents. Extend medicaid-covered preventive health care services. Prepare informational pamphlets for welfare-eligible persons.

2. Beulah Hill, Montana People's Action - Reward recipients financially for gaining employment, training and/or additional education. Hold a series of public hearings for input from recipients, service providers and citizens.

3. Agencies - Undertake study of assistance policy options consistent with prevailing federal reform activity. Plan for administration of constitutional amendment, should it pass. Prepare policy recommendations incorporating: removal from immediate dependency, mutual obligation, disruption of generational welfare chain, family obligation, prevention.

4. Anonymous - Set priorities for, and audit, Montana Legal Services work. Do not increase anti-fraud staff.

5. Anonymous - Meet only demonstrated need. Use rateable reduction to encourage earnings. Do a study to determine actual need. Allow recipients to receive the value of their production, regardless of minimum wage.

6. Anonymous - Eliminate some benefits. Use a comprehensive work program with incentives for recipients and employers as an alternative to cash benefits. Assist recipients with re-education, day care and/or relocation. Require federal government to assume more responsibility for Native Americans. Make relatives responsible for support, with incentives for relatives not normally required to provide support.

7. Anonymous - Require parents to support pregnant teenage daughters.

8. Anonymous - Require training program for AFDC families, especially teen parents, on:

1. When to call doctor
2. When to use emergency room
3. Medical consequences of smoking in home
4. Nutrition bargains
5. Single parenting

### Support Services

1. Billie Warford - DFS provide leadership for formation of inter-agency council of DFS, DOL, DHES, SRS, Governor's Office, Commissioner of Higher Education, County Extension Service, public school, legislative and private sector representatives. Council would assess need for day care policy and program planning and development; provide long-range planning, budget and policy development and make provisions for interagency cooperation. Develop and support child care resource and referral programs. Provide financial assistance for day care to welfare families.

2. Anonymous - Provide state-owned and operated day care centers.

Form "Recipients Anonymous" support group.

FEDERAL WELFARE REFORM BILLS

<u>CATEGORY</u>	<u>HOUSE BILL</u>	<u>SENATE BILL</u>	
1. <u>Net Cost</u> <u>(5 yr.)</u>	(Downey) \$4.4 billion 60/40 matching rate	(Moynihan) \$2.8 billion 60/40 matching rate.	Bills will be in conference until mid-September, 1988. Compromise: costs will be between \$2.9 and \$3.3 billion.
2. <u>Benefit</u> <u>Increases:</u>	States re-evaluate benefit needs and payments annually.	States re-evaluate needs and payments every 5 years. No incentive to increase.	
Work Disregards:	\$100 plus 25% of remaining earnings. Day care disregard: \$175 per child per mo. age 2 and over; \$200 for under 2. \$50 child support disregard for food stamp eligibility.	Unchanged (states determine earnings disregard; \$160 per child per mo., child care)	Compromise: disregards will probably be lower than in the House Bill.
3. <u>Employment and</u> <u>Training Programs:</u>	National Education Training and Work (NETWORK) Program	Jobs Opportunities and Basic Skills Program (JOBS)	
Target Population Priorities	<ul style="list-style-type: none"> <li>a. Teen parents</li> <li>b. Families on Family Support Program benefits continuously 2 yrs. or more.</li> <li>c. Families with children under 6 years</li> <li>d. Unemployed primary earner (6 mos. or more), two-parent family.</li> <li>e. Families with youngest child within 2 yrs. of ineligibility due to age.</li> </ul>	<ul style="list-style-type: none"> <li>a. Recipients of Child Support Supplement (CSS) for 30 consecutive mos., youngest child 3 yrs. or older (State option: 1 yr.).</li> <li>b. Recipients for 30 mos. of 60 mos. preceding most recent application, youngest child 3 yrs. or older (State option: 1 yr.).</li> <li>c. High school drop-out parents under 21 yrs. old.</li> <li>d. Unemployed parents, two-parent family.</li> </ul>	

<u>CATEGORY</u>	<u>HOUSE BILL</u>	<u>SENATE BILL</u>
<u>Employment (cont'd.)</u>		
	Performance incentives to states/providers for working with hard-to-place.	State matching rate reduced 10% - 22% if participation standards are not met over 3 fiscal years.
Mandatory full-time participation	Parent of child 6 yrs. or older. Child care must be assured during non-school hrs. for 6-14 yr. olds.	Parent of child 6 yrs. or older. (State option: may require both parents in 2-parent family, if child care assured.)
Mandatory part-time participation	Parent of child 3-6 yrs. old, if day care assured. (State option: child 1 yr. or older.)	Parent of child under 6, if day care assured.
Programs offered	Assessment, case mgt., academic ed., remedial ed., English as second language, specialized advanced ed., group/individual job search, skills training, job readiness activities, counseling, info./referral service, on-the-job training, work supplementation, community work experience. Workfare prohibited.	Assessment. May provide case mgt., educ., training, employment services, work supplementation, community work experience, job search.
Wages	Standard wage for job. Supplement paid for loss in net income.	Minimum or higher. Supplement paid for loss in net income.
Support Services	Child care, transportation, other job-related expenses, medical.	Same

Performance standards are a major point of contention.

<u>CATEGORY</u>	<u>HOUSE BILL</u>	<u>SENATE BILL</u>
<u>Employment (cont'd.)</u>		
Financing	Open-ended, 65% fed. share for ed., training, support services.	Open-ended 60% fed. share for work and training.
<hr/>		
4. <u>Transitional Benefits:</u>		
Day Care	1 yr. sliding scale.	9 mos., sliding scale. Limit of 9 mos. in 36 mo. period.
Transportation	1 yr.	
Medicaid	6 mos., with 18 mo. extension. State may use any of several options for extension coverage. Copayments permitted. Premiums <u>not</u> scaled to income.	4 mos., with beneficiary option to renew for 5 mos. Beneficiary pays part of extension costs. (State option: State may use employer-provided policy, HMO, State employee, or other group plan.) Premiums scaled to income.
<hr/>		
5. <u>Child Support Enforcement:</u>		
Uniform Child Support Guidelines	Yes. Must be reviewed every 4 yrs. and adjusted for cost-of-living. Review and update of awards every 2 yrs.	Yes. Must be reviewed every 5 yrs. Review awards every 2 yrs.  <u>Compromise:</u> have agreed to review guidelines every 4 yrs.

SENATE BILL

HOUSE BILL

CATEGORY

Child Enforcement  
(cont'd.)

Paternity Establishment  
Mandated percentage of establishment. Fed. share is 90%.

Mandated percentage of establishment. Blood tests required. States encouraged to set procedures for voluntary/contested paternity. May be anytime before child's 18th birthday.

Yes, with exceptions.

Yes, with exceptions.

Automatic Wage  
Withholding

HHS has access to Dept. of Labor and state employment security agencies. Establishment of Commission on Interstate Child Support. Time limit on enforcement.

Fed. Parent Locator Services and state agencies have access to Dept. of Labor INTERNET System. Time limit on enforcement activities.

Interstate  
Enforcement

Compromise: have agreed to establishment of Commission on Interstate Child Support.

Yes.

Yes.

Automated data  
processing/  
monitoring system

Yes.

No.

Soc. Security #'s  
collected at  
child's birth



<u>CATEGORY</u>	<u>HOUSE BILL</u>	<u>SENATE BILL</u>
6. <u>Minor Unwed Parent Family</u>	Must live with minor's parents (child's grand-parents) to qualify for AFDC/FSP. Case mgt. services provided. Income of grandparents <u>not</u> considered. (State option: may require part-time school attendance, parent training, family living skills.) Day care must be guaranteed.	Must live with parent, guardian, adult relative, in foster home, maternity home or other supervised living arrangement to collect CSS (exceptions allowed). (State option: may require school attendance and parenting classes, if child care assured.) Grandparents' income considered.
7. <u>Demonstrations/Studies/Waiver</u>	<p>Studies of: minimum benefits; effectiveness of giving priority to volunteers; two-parent family strategies; wage rates; effectiveness of targeting families with children under 6; costs of raising children in two-parent, single divorced and single never-married families; AFDC-Food Stamp Coordination; housing problems.</p> <p>Demos: To reduce drop-outs and encourage skill development; five "AFDC/FSP Mothers as Day Care Providers" projects; five projects to test elimination of "100 hrs." rule in AFDC-UP; ten volunteer-based early childhood development projects involving AFDC/FSP parents;</p>	<p>Compromise: have agreed to House study on costs of raising children; eight projects to test elimination of "100 hrs." rule in AFDC-UP; and up to five state demonstrations to test whether non-custodial parents can be encouraged to participate in work, ed., or training programs.</p> <p>Demonstrations: New York Child Assistance Payment Demo.; Washington State Family Independence Program; Evaluating Procedures for Reviewing Child Support Awards (4 states); Grants to Provide Permanent Housing for Families that would Require Emergency Assistance (2 states); Innovative Education and Training for CSS Children; Projects to Address Access (child visitation) Problems; Innovative Methods for Providing Suitable Foster Care; Expand Availability of Child Care (5-10 states, rural emphasis); Employment of CSS Mothers as Day Care Providers (5 states).</p> <p>Waiver: 10 states at one time may apply to waive requirements and experiment with innovative methods.</p>

CATEGORY  
Studies (cont'd.)

HOUSE BILL

five projects to test application of Food Stamp Automobile value limits for 5 yrs.; study custody problems and test solutions; test whether non-custodial parents unable to pay child support can be encouraged to participate in work, ed., or training programs; New York State Child Support alternative to AFDC; provision of permanent housing to homeless families; Washington State Family Independence Program.

Waiver: Existing procedures maintained.

SENATE BILL

Subject to waiver: CSS; JOBS; Child Welfare Services; Child Support Enforcement Program; Foster Care and Adoption Assistance; Emergency Assistance; Social Services Block Grant; any non-federal public poverty program.

Benefits may not be reduced below pre-waiver levels. Child care must be assured.

PROGRAM: Work Incentive (WIN) Program

LOCATION: Montana

STUDY: FY87 comparison with FY86, completed by Regional WIN Unit, U.S. Department of Labor/U.S. Department of Health and Human Services

Program Features:

Eligibility- All AFDC recipients in six counties, not exempt due to:

1. Youth (under age 16)
2. Full-time student status, age 16-18
3. Illness, incapacitation, advanced age
4. Distance from program
5. Necessity of caring for ill or incapacitated family member
6. Full-time caretaking of child under 6
7. Part-or full-time unsubsidized employment (30 hrs. per week or more)
8. Non-exempt status of other parent in two-parent family

Funding- FY87: \$609,700 federal, \$18,000 Dept. of Family Services funds, \$49,800 in-kind contributions collected by Job Service Division

Goal- Help parents and relatives of AFDC child attain and retain self-support and personal independence; restore AFDC families to independence and useful roles in the community; provide example of working parent or relative for AFDC children.

Services-

Testing, counseling, job referral, job development, exposure to labor market information, orientation to the world of work, Employment Search, Institutional Training, Work Experience, On-the-Job Training, Suspense to Employment/Training JTPA programs.

Support Services-

Personal and family counseling, family planning, financial and home management counseling, homemaker and housing improvement services, referrals for mental health, child abuse and day care services, day care purchase, transportation, employment-related medical exams, health-related care services not included under Medicaid.

Participation-

The entire AFDC caseload dropped 4.1% from FY86 to FY87. New registrants dropped 21.5%, but WIN certifications rose 6.3%. 311 participants were involved in Employment Search, a drop of 5.8%. Nine were in OJT and twelve in Institutional Training, a rise of 900% and 1200% respectively. 335 were in Suspense to Training and Employment programs, a 22.6% loss.

Costs-                \$666 per entered employment (a decrease of 18.2% over FY86).

Outcomes-

1. WIN staff were reduced by 11.9 employees in FY87, leaving 19.1 staff members to deal with participants.
2. Staff secured employment for 915 WIN registrants in FY87, a decrease of 19.5% from FY86.
3. Costs per client dropped 18.2%.
4. 838 clients were removed from AFDC rolls in FY87 due to WIN involvement (\$389,308 in welfare payments), compared to 910 clients in FY86, (\$368,162).
5. 89.9% of WIN participants retained employment 30 days or more (down 4.7%).
6. Average starting wage was \$4.75 (no change).
7. For every \$1 (federal and state) spent by the WIN program, \$19.50 in benefits resulted.

Conclusions:

1. Montana's cost benefit ratio remains among the highest in all WIN states.
2. There is a high level of efficiency in program performance in spite of increased workload demands due to funding and staff reductions.

Program: Employment and Training (ET) Choices, 1983-Present  
(FY86 data)

Location: Massachusetts

Study: No formal study available

Programs Features:

1. Eligibility - All AFDC and AFDC-UP, but the following are targeted:

Principal earners, two-parent families  
Women with children aged 14-18  
Teenage dependents  
Pregnant teens, teen mothers  
Public housing residents  
Long-term (2 yrs. or more) recipients  
Volunteers

2. Funding - FY 88 request: \$30,205,081 (\$22,805,081-General Fund, \$6 million-Federal, \$1.4 million-Federal Voc. Ed. funds)
3. Goal - Extend economic opportunity to all needy citizens in Massachusetts by eliminating barriers to independence.
4. Services - Career planning, adult literacy and education, skills training, supported work, direct placement. Intake and registration are done by Financial Assistance Social Workers who refer clients to ET Workers (Dept. of Human Services) for career planning. The Department contracts with local private providers for literacy/-education services. Skill training is provided through a combination of the JTPA system and individual private contractors. Supported work is done at private sector worksites. Contracts are performance-based; specified numbers of clients must be placed at a wage of \$5.00 or more and remain employed at least 30 days. Placement services are offered through an inter-agency agreement with the Division of Employment Security and the Department of Personnel Administration.
5. Support Services - Transportation, voucher day care
6. Participation - 1983-1986: The number of men placed dropped by 10%, while the number of women placed rose by 10%. The number of white participants dropped by 9%; the number of Black and Hispanic participants rose by 9%. The number of participants under 21 rose by 2%. The number of participants with a child younger than 6 yrs. doubled, although these people are not required to register with the program. FY88 projections for services are:

1. Job placement/development: 10,000 served, 5,000 placed
2. Skills training: 2,500 served, 1,600 placed
3. Adult literacy and ed.: 2,300 served, 1,600 placed in further education, skills training or jobs
4. Supported work: 2,000 served, 1,000 placed

7. Costs: \$3,300 per placement

Outcomes:

1. 30,000 participants have found part or full-time unsubsidized employment.
2. Average full-time wages (\$12,000) are double the average welfare grant (\$5,600). This may be related to:
  - a. The \$5.00 per hour floor required for placements by performance contracts = \$10,400.
  - b. Massachusetts has a very active economy (4% unemployment, compared to 5.7% nationally and 9.4% for Montana).
3. 86% of those able to leave welfare are still off one year later.
4. Over 2/3 of unsubsidized jobs provide health insurance.
5. Average annual salary of ET placements has risen by 20% since 1984 (\$10,000 to \$12,000).
6. The AFDC-UP caseload declined 54% since 1983.
7. Minority placement increased by 9%, 1983-1986.
8. Average length of stay on AFDC, and number of families continuously on AFDC caseload for 5 years or more have declined. Average length of stay declined 27% (40 mos. to 28 mos.). Number of clients on 5 years or more decreased 25%, compared to a 4.2% decline in the entire AFDC caseload.
9. The AFDC caseload declined 4.2% (compared to a decline of 4.1% in Montana's AFDC caseload reported for FY86-87 by the Regional WIN Unit, U.S. Dept. of Labor/U.S. Dept. of HHS).

Conclusions: The program appears to have been successful in removing

large numbers of people from welfare dependency, but in the absence of a formal study, there is no way to determine normal case turnover, how participants would have fared without the program, or the role that Massachusetts' active economy played in providing employment opportunities.



Program: General Relief (GR) Choices, established 1986

Location: Massachusetts

Program Features:

1. Eligibility - Voluntary participation by any GR recipient, but the following are targeted:
  1. Families
  2. Individuals age 45 and over, lacking a work history
  3. Ex-offenders
  4. Halfway house residents
  5. Emotionally-disabled persons
  6. Homeless individuals/families
2. Funding - FY88 request: \$2,072,000
3. Goals - Assist GR clients in obtaining meaningful employment, economic independence and a route out of poverty.
4. Services - Unsubsidized employment and training, voc. rehab., legal assistance with SSI applications and appeals, career planning, basic literacy, adult ed., English as second language, GED preparation, supported work.
5. Support Services - Child care vouchers, transportation
6. Participation - FY88 projections:
  1. Entire GR caseload - 26,000
  2. Supported work for the Emotionally Disabled - 330 served, 110 placed in unsubsidized employment
  3. Job placement/counseling - 600 served, 300 placed
  4. Comprehensive Offender Employment Resource System - 500 served, 250 placements
  5. Supported work - 155 served, 75 placed
  6. Education and skills training - 30 served, 20 placed

Outcomes:

1. Since the program began in 1985, over 3,000 General Relief recipients have found jobs.

Conclusions: The program appears to be successful in finding employment for some GR recipients, but in the absence of a formal study, there is no way to determine normal case turnover, how participants fare without the program or the role that Massachusetts' active economy (4% unemployment) plays in providing employment opportunities.

Program(s): Sixty-one Community Work Experience (CWEP) Programs, WIN Demonstration Programs, Work Supplementation Programs and Employment Search Programs begun since 1981.

Location: Thirty-eight states.

Study: GAO report to the Chairman, Subcommittee on Intergovernmental Relations and Human Resources, Committee on Government Operations, House of Representatives, entitled, "Work and Welfare: Current AFDC Work Programs and Implications for Federal Policy", January 1987.

Program Features:

1. Eligibility - WIN-mandatory AFDC and AFDC-UP applicants/recipients. Two-thirds of programs exempt individuals with children under age 6. Programs generally do not cover entire states and some screen out the less employable who need intensive and expensive services. More than 80% of programs have mandatory registration/participation requirements, but enforcement is generally lacking.
2. Funding - WIN federal funding has declined from \$365 million in 1981 to \$110 million in 1987. Total FY85 funding for Work Programs (all federal, state, local, other and unidentifiable funds) was \$272 million.
3. Goal - Varied, from requiring work in exchange for benefits to decreasing overall welfare dependency. Goals may be recipient-centered, such as improving employability and earnings, or government-centered, such as reducing welfare rolls and expenditures.
4. Services - 71% offered Work Experience; 48%, OJT; 10%, Supported Work; 49%, vocational skills; 54%, remedial/basic education; 38%, post-high school education; 67%, individual job search; 62%, group job search; 53%, direct placement; other, 13%.
5. Support Services - 59 (of 61) programs offered child care, but relied on other sources for funding. 60 provided transportation. Median child care reimbursement was \$60/month and transportation was \$24.41. Significant numbers of people were excluded from participation due to need for transportation or child care.
6. Participation - States served, on the average, about 20% of eligible participants, with individual and group job search showing the highest degree of participation among services provided. Among WIN Demonstration Projects,

participation was: job search (individual and group), 50+%; direct placement, 16.2%; all other services including education/training and work habit training, 0.6% - 4.5%. Participation in CWEP programs was: Work Experience, 91.4%; individual job search, 32%; all others, 0.0% - 3.4%. Job Search participation included: individual job search, 57.8%; "other" activities, 20.4%; group job search, 13.9%; all others, 0.0% - 6.9%. Participation in Work Supplementation/Grant Diversion Programs was: OJT, 38.8%; work experience, individual job search, group job search and direct placement, 20.2% each; supported work, 13.8%; all others, 0.0% - 5.2%.

Overall participation:

Individual job search, 38%  
 Group job search, 37.8%  
 Training, work experience, "other", 12.5%  
 Direct placement, 11.7%

7. Costs - Per participant:

WIN Demo.: \$98-\$1,388, median \$300  
CWEP: \$55-\$6,800, median \$450  
Job Search: \$40-\$535, median \$200  
Work Exp./Grant Diversion: \$162-\$2,483, median \$1,100

Outcomes:

1. Most programs emphasized individual and group job search (\$200-\$300 per participant) or work experience requiring entry level skills. This may be due to the prohibitive expense of most longer-term services. For example, OJT cost an average of \$2,700 per participant and classroom training, \$3,500.
2. Median unsubsidized job placement for all programs was 29%. Manpower Demonstration Research Corporation's (MDRC) final report for San Diego (job search/work experience) shows a 6% employment increase over a control group. Their final report for Options (job search, work experience, training/ed.) in Baltimore, Md., shows a 5% employment increase over the regular WIN program control group.
3. San Diego participants earned \$700 per year more than the control group; Arkansas participants earned \$156 per year more; and Baltimore participants earned \$176 more per year than control participants. Estimates of other programs show annual increases of 5-10% over non-participants.

4. Median salary for all programs was \$4.14 per hour, due to the emphasis on job search activities and the low-paying clerical/service jobs traditionally offered to women.
5. Half of all programs reported that 48% of employed participants still received welfare, due to:
  - a. Low wages
  - b. Part-time work
  - c. Disregarded earnings and expense deductions

MDRC's three final reports showed that one program had no reduction either in the number of AFDC recipients or in the amount expended for benefits; one program reduced the number of recipients, but not the amount of benefits; and one program reduced the amount of benefits, but not the number of recipients.

6. Median job duration: 86% were still employed after 30 days; 65% were employed after 90 days (limited data available); 62% were employed after 180 days (limited data).
7. MDRC's cost/benefit analysis showed that in the Arkansas program, taxpayers and government budgets benefited while recipients stayed the same. In San Diego, recipients, taxpayers and budgets all benefited, and in Baltimore, recipients benefited, taxpayers stayed the same and government budgets lost.

#### Conclusions:

1. The work programs show modest success at getting participants into jobs, increasing earnings and decreasing dependency. Participants maintained employment and earnings improvements over control groups (where available) over time.
2. The greatest benefits accrue to those without job experience.
3. Wages are low; many participants remain on welfare rolls.
4. Program success is greatly dependent on local economies.
5. Long-term savings could accrue if emphasis were on the hard-to-place, but initial costs would be higher.

Suggestions for policy-making:

1. Encourage state flexibility.
2. Supply adequate, stable funding.
3. Serve the hard-to-employ.
4. Include women with young children.
5. Provide adequate support services.
6. Develop measures of performance.
7. Require uniform reporting of implementation and outcomes.

PROGRAM: Job Search and Work Experience

LOCATION: Cook County, Illinois

STUDY: 12,000 people who became WIN-mandatory between 2/85 and 9/85; randomly-assigned to three groups: required to participate in orientation only; required to participate in both orientation and job search; required to participate in orientation, job search and work experience. Follow-up period: 18-24 months for employment and earnings; 20-27 months for AFDC receipt.

Features:

1. Eligibility: All WIN-mandatory AFDC recipients (about 50,000 in Cook County)
2. Goal: Reduction of welfare caseloads and costs
3. Activities:
  1. Initial orientation (required of all)
  2. Independent Job search (IJS): 2 month self-directed job search - limited assistance from staff - 4 biweekly group meetings
  3. Illinois Work Experience Program (IWEP)-3 months of part-time unpaid work, primarily in non-profit organizations. Hours of required participation determined by dividing AFDC grant by minimum wage.
  4. Modified Job Search - holding status for those not assigned to IWEP.
  5. Education/training acceptable in lieu of above, but dependent entirely on client initiative (program offers no education or training)
4. Participation: 66% attended orientation; 36% took part in Job Search; 7% were active in IWEP; 17% self-initiated training/education participation.
5. Costs: \$130-\$160 per registrant

Outcomes:

1. Compared to other programs, large numbers of people (10% of all sample members) were sanctioned for non-participation, particularly in orientation. Enforcement of participation was particularly effective compared to other programs.

## Job Search

2. No statistically significant gain in employment or earnings was noted overall. Only the 13% of participants who had been on welfare and had earnings in the year prior to participation had statistically significantly higher earnings.
3. Welfare savings of 3.1% were achieved for Job Search participants. Savings of 1.6% were achieved for IWEF/Job Search participants. This is attributed to the greater zealousness of staff in closing cases and reducing grants. (Staff were on a quota system for case closures).

## Conclusions:

1. Although most IWEF participants liked their jobs, the majority felt the requirement to be unfair. Fear of sanctions (reduced grants) was not enough to induce many to participate in the program.
2. IWEF assignments provided little skill development.
3. Participants did not gain either in employment or earnings. Many lost ground when earnings resulted in reduced Food Stamp and other transfer payments.
4. The program achieved small savings, primarily through case closures and grant reductions (sanctions). Governmental budgets were affected by very slight increases in tax payments, reduced AFDC payments and reduced Food Stamp and other transfer payments for a projected five-year savings of \$232-\$334 for each IJS/IWEF experimental participant and a savings of \$418-\$543 per experimental in the IJS-only program.

PROGRAM: Options, Baltimore, MD

STUDY: Three-year follow-up comparison with  
WIN program

PROGRAM FEATURES:

1. Eligibility

a. Options: One thousand randomly-assigned new registrants (either new applicants for AFDC or recipients newly-required to register with WIN due to changed circumstances. Mandatory participation for both AFDC and AFDC-U.

b. WIN: Control group of 1,600 new applicants, newly-required recipients and continuing recipients. Mandatory participation for both AFDC and AFDC-U. Also responsible for all other welfare applicants/recipients not in research sample.

2. Funding

a. Options: Adequate funding to provide appropriate activities and services to all enrollees, while ensuring that staff caseloads remain low.

b. WIN: Inadequate funding to provide services to all registrants.

3. Goal

a. Options: Long-term employability with higher earning potential.

b. WIN: Direct placement into labor force.



4. Services

a. Options: Group and individual job search, work experience, education/training, OJT. No fixed sequence of activities. Ongoing participation required. Assessment, counseling, monitoring done by Options staff; other services provided by subcontractors.

b. WIN: Job search and placement, little work experience or training.

5. Support Services

a. Options: Transportation, child care, stipend, incentive payments (dependent on specific activity)

b. WIN: Unknown

6. Participation

a. Options: Within one year of enrollment, 53% of registrants participated in at least one activity: group/individual job search - 30%; work experience - 20%; long term education/training - 17%. Full or part-time participation allowed.

b. WIN: Within one year of enrollment, 4.6% of registrants participated, mostly in job search. Only full-time participation allowed.

7. Costs

a. Options: \$950 per participant (1984 value)

b. WIN: \$129 per participant (1984 value)

## Outcomes

1. Over the three year follow-up period, Options participants averaged 16% higher earnings than WIN participants (\$7,638 vs. \$6,595). Eighty-one percent of this salary increase came later in the study, indicating long-term employment.
2. Total income (earnings plus welfare payments) for Options participants increased by 9% over WIN participants.
3. Although recipients utilized the more expensive training/education services, Options applicant participants earned an average of \$1,375 more.
4. During the follow-up period, 71% of all Options participants worked at some time, compared to 66% of all WIN participants (statistically significant).
5. Sixty-five percent of Options recipients (long-term welfare dependent) worked during the study period. Sixty percent of WIN recipients worked (statistically significant).
6. Options participants without previous work experience were employed at a rate 7.5% higher than similar WIN participants.
7. Governmental budgets were affected by increased tax revenue from earnings, lower Food Stamp payments and reduced use of WIN, but still incurred a net loss of \$203 per participant. If the value of community service work is counted, there is a net gain of \$72 per participant.
8. There was no significant reduction in either AFDC payments or numbers of participants receiving AFDC.

## Conclusions

1. The Options Program succeeded in providing a wide array of services to a diverse group of participants, with a substantial participation rate. Applicants were found to have much more recent work experience in the year previous to entering the program than recipients (61% vs. 28%).
2. Options succeeded in placing a significantly greater number of people into employment, with significantly higher earnings than the WIN program.
3. The Options participants with the least work experience showed the greatest gain in employment and earnings, compared to similar WIN participants.
4. Most Options participants liked their work experience jobs and preferred having benefits tied to a work/training requirement.
5. Participants benefited from combined higher earnings and continued welfare benefits.
6. Options did not succeed in reducing the number of participants on welfare or the amount spent on welfare payments.
7. Higher tax revenues, lower Food Stamp and WIN costs, and the value of community work experience combine to make program costs and benefits almost even.

## Synopsis of County Funding of Public Assistance

### I. History of county responsibilities for care of indigent

#### A. 1865 Montana Territorial Legislature

##### 1. An Act Relating to the Care of the Poor

- a. County commissioners responsible for persons in county who cannot take care of selves due to physical or mental infirmity or for other reasons
- b. Families must first be responsible for support; could be sued to provide \$30.00 per month
- c. Resident defined as one abiding in county for at least two months
  - (1) Non residents could be removed to county of most recent residence
  - (2) If residency could not be established, aid could be given in extreme cases of emergency
- d. Allowed establishment of poor farms where those receiving aid could work/live--from English law
- e. Children who became dependent on county were to be placed in "respectable" homes
- f. Act remained intact with some minor changes until broadened in 1915

### II. Mother's Pension Act 1915

- A. Mothers of dependent children who had been without father's support for two years due to father's physical or mental disability or to institutionalization or for other reasons could receive aid
- B. District court determined eligibility; state general fund paid monthly benefits--\$10.00 first child; \$5.00 second child; \$2.50 each additional child; mother had to remain in home to care for children
- C. Amended 1917; 1/2 of payment must come from county poor

fund; county attorney to represent applicants before district court

- D. In 1933 amended to give eligibility determination to county commissioners

### III. Old Age Pension 1923

- A. Montana first state in U.S. to pass such a law
- B. County commissioners determined eligibility
- C. Payments up to \$25.00 monthly for persons 70 or older with no responsible family members and with incomes of less than \$300 annually
- D. Payments responsibility of county poor fund
- E. Repealed with passage of Federal Social Security Act in 1935; no county responsibility for funding old age pension benefits (53-4-246, MCA)

### IV. Impact of federal involvement in public assistance

- A. Passage of the federal Social Security Act in 1935 introduced changes into county/state funding of public assistance
- B. 1937 is the first time reference listed for most public assistance and protective services statutes for children governing current programs

### V. State assumption of county welfare costs

- A. 1983 Legislature enacted HB 798 allowing counties to turn over welfare program to state
- B. Twelve counties have opted for state assumption; called state-administered counties (see SRS handout re budgeted costs versus revenue)
- C. State-administered counties levy 12 mills in property tax and remit the revenue to the state to cover the cost of AFDC, foster care, state medical, state general assistance, social services benefits and a portion of administrative costs

### VI. County finance of public assistance in state-supervised counties

- A. State-supervised counties can levy up to 13.5 mills for the poor fund to finance general relief and proportionate share of public assistance and protective services; any remaining funds can be used to improve public buildings used to care for the poor, except hospitals and nursing homes (53-2-322 (7), MCA)
- B. Counties fund their share of AFDC from poor fund as well as general assistance, general medical assistance, foster care, and any other public assistance; also fund portions of administrative costs for such programs (53-2-304 (2), MCA)
- C. Other levies that can be made to augment social services
  - 1. Any county, city, town or municipality may levy up to one mill on each dollar of taxable property to fund recreational, educational and other activities for the elderly (7-16-101 (1), MCA)
  - 2. Any county participating in a regional mental health corporation shall pay its share of corporate expenses from the general fund; however, any participating county may levy up to one mill if the general fund is insufficient
  - 3. Any county may levy up to one mill to fund any developmental disability facility approved by SRS without regard to the location of the facility (53-20-208, (1), MCA)
  - 4. A county may levy up to 10 mills for the support of county nursing homes and hospitals; however, this levy combined with the poor fund levy may not exceed 18 mills; this levy may not be imposed on property within any hospital district (7-6-2512, MCA)
  - 5. Counties may levy up to one mill to fund the establishment, maintenance, and development of programs for training of operators and employees of day-care centers and homes (7-16-2108, MCA)
- C. Emergency grant-in-aid
  - 1. State-supervised counties with lawful poor fund expenditures in excess of 13.5 mills can apply for an emergency grant in aid from the state (53-2-323, MCA)

2. County must notify SRS of poor fund shortfall; SRS must determine within 10 days whether poor fund will be depleted and whether SRS intends to allow or deny grant in aid
3. Prior to receiving grant in aid county must transfer all monies from the depletion allowance reserve fund (7-34-24-2, MCA)
4. Prior to state assumption of county welfare programs several counties had requested grants from SRS including Lewis and Clark, Missoula, Butte-Silver Bow, Deer Lodge, Mineral, Cascade and Park counties
5. After the close of the fiscal year, SRS audits county poor fund expenditures to determine which qualify for emergency grant in aid; lawsuits resulted over the exclusion of some costs by SRS

#### VII. County funding of economic assistance for dependent children

- A. Passage of Federal Social Security Act in 1935 foundation for such programs
- B. Later amendments to federal law established Aid to Families with Dependent Children
  1. By statute state-supervised (nonassumed) counties must pay 22.5% of the nonfederal share of AFDC grants (53-4-246, MCA)
  2. Federal share of payment is determined by a formula that compares the per capita income of a state to the national average per capita income (FY88 federal share is 68.91%)
  3. Federal share of administration costs is about 50%
  4. County share of administration costs for AFDC will be discussed later
- C. Some statutes governing foster care and protective services were originally adopted in 1937 conjunction with changes made to state laws to secure federal benefits under the social security act

#### VIII. County funding of social services including protective services and foster care placements

- A. Funding for foster care is a shared responsibility of state, county and federal governments depending on the

placement of a child, income of a child, on the county of residence of the child, and on the race of the child

- B. All protective services costs are paid by the state in state-administered counties (offset by the 12 mill levy income)
- C. 1987 Legislature passed HB 325 to create Department of Family Services which limits state-supervised county liability for foster care benefit payments up to the amount paid in FY87
- D. Payment of administrative costs for state-supervised counties is fixed at the amount remitted in FY87 but can be adjusted for inflation

#### IX. County/state funding arrangements

- A. County share of administrative costs for SRS programs
  - 1. AFDC, food stamps, medicaid with few exceptions  
50% local, 50% federal
  - 2. Local share paid by county if state supervised
  - 3. General assistance and general medical--100%  
county in state supervised counties
  - 4. State pays the county share of benefits for ward  
Indians in AFDC or foster care
- B. County funding of administrative costs
  - 1. State-administered (assumed) counties share of  
administrative costs is included in the income  
remitted to the state from the 12 mill levy
  - 2. State-supervised counties share of administrative  
costs for SRS programs is based on a federally-ap-  
proved cost allocation plan because precursor  
thought to be unfair
    - a. Prior to 1977, counties paid 50% of the  
administrative costs
    - b. The federal government reimbursed the state  
50% of an eligibility technician's salary and  
75% of a social worker's salary; however,  
the state actually received 125% of the  
salary of a social worker as the county  
reimbursed 50% and the federal government  
reimbursed 175% of the salary



- c. Counties protested that the funding for administration was unfair so a new system was derived
- 3. The cost allocation plan provides a formula for billing all administrative costs to the programs that SRS administers; the respective federal, county, and state share of administrative costs is calculated based on the funding of the administrative costs in those programs
  - a. Counties must reimburse SRS for a portion of administrative costs according to the cost allocation plan
  - b. State-supervised counties also incur administrative costs that are paid from the poor fund including rent, supplies, equipment and communications
- 5. Some administrative and support costs are directly allocated to programs--e.g. data entry operators who bill on the number of keystrokes
- 6. Some administrative and support costs are allocated based on the funding percentage of employees to funding for employees in the respective division
- 7. Some costs are billed based on a random moment time survey of employees such as eligibility technicians
- C. Administrative costs for Department of Family Services
  - 1. State-administered counties portion previously funded from the 12 mill levy income; however, when H.B. 325 was passed the entire 12 mill levy amount was retained in the medical assistance program appropriation in SRS and general fund was appropriated to DFS in its place; income from future state-assumed counties will be appropriated to SRS, its general fund appropriation reduced and the general fund appropriation of DFS increased by an amount equal to county expenditures for child and adult protective services in the fiscal year immediately preceding state assumption
  - 2. State-supervised counties must remit to the state an amount equal to that expended in FY87 for staff

salaries, travel and indirect costs; amount can be adjusted for inflation in subsequent years (H.B. 325 section 14)

3. DFS is now billing counties monthly one-twelfth the cost of the FY87 administrative costs incurred in the community services division while it was part of SRS

D. Benefit funding DFS

1. With the passage of H.B. 325 counties must remit to the state the lesser of actual or FY87 expenditures
2. However, if benefit expenditures for FY87 were less than \$10,000, the county pays the level incurred in FY87 or the average over FY84 to FY87, whichever is less (41-3-1115 (4), MCA); affects about 6 or 7 counties

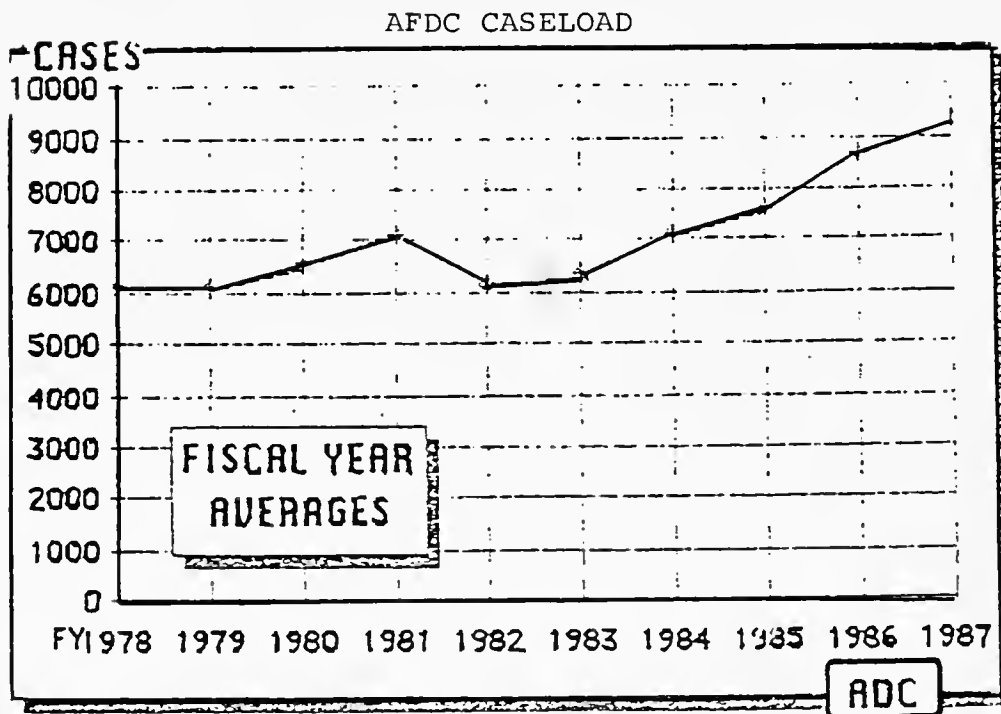
D. Other county/state funding and staff issues

1. All state-supervised counties must fund operating costs including rent, equipment, supplies and communications
2. Staff supervision
  - a. Some workers in counties are hired and supervised by the state while some workers are hired by the county and supervised by the county and state
  - b. All social workers and support staff for such workers are employees of the state DFS; directly accountable to the state
    1. Previously the county welfare directors supervised these employees; now social worker II and III FTE supervise DFS employees
    2. Supervisors are located in most, but not all county offices
  - c. In state-administered counties all workers in county offices are state employees of SRS or DFS
  - d. In state-supervised counties, all employees other than social workers and respective

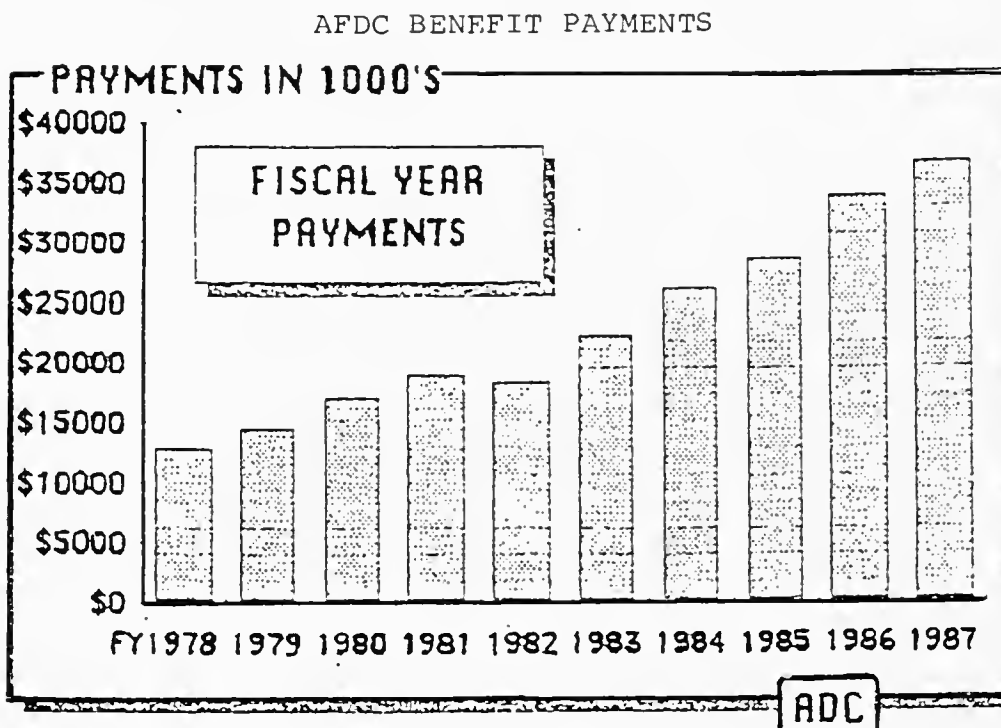
support staff are hired by the county from lists of qualified applicants drawn up by SRS and are directly responsible to the county; SRS may request that a county dismiss an employee; counties cannot fire employees without the consent of SRS; the final authority for dismissal is the county welfare board (53-2-304, MCA)

- e. In state-supervised counties, county boards determine the number of FTE to administer SRS public assistance programs; the DFS determines the level of FTE to administer foster care, social services, and protective services

# AID TO FAMILIES WITH DEPENDENT CHILDREN (STATE FISCAL YEAR ENDING JUNE, 1987)

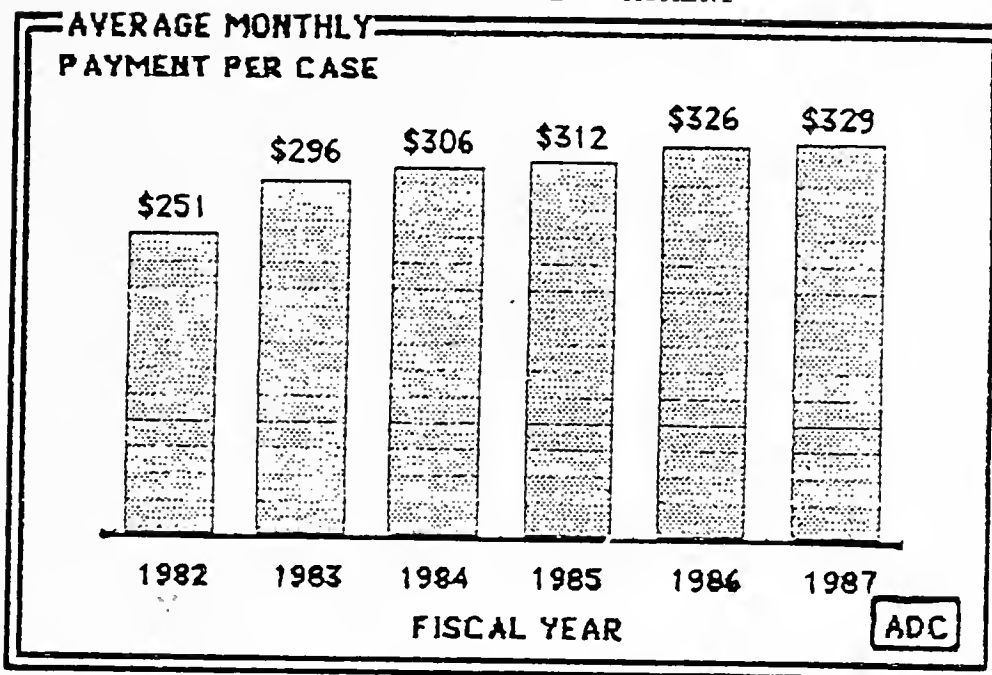


(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)



(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)

## AFDC AVERAGE MONTHLY PAYMENT

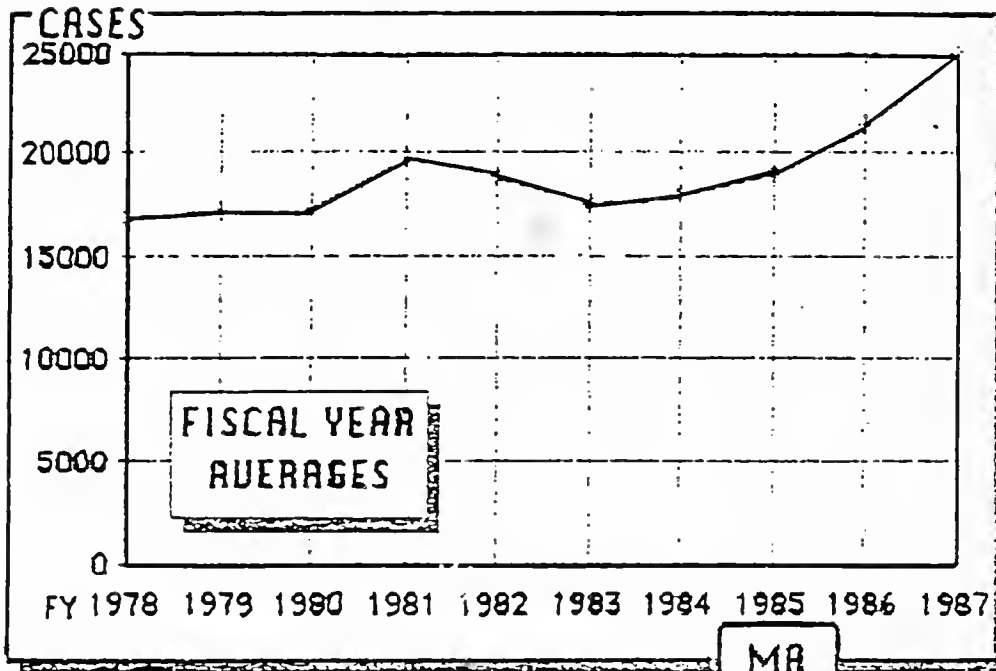


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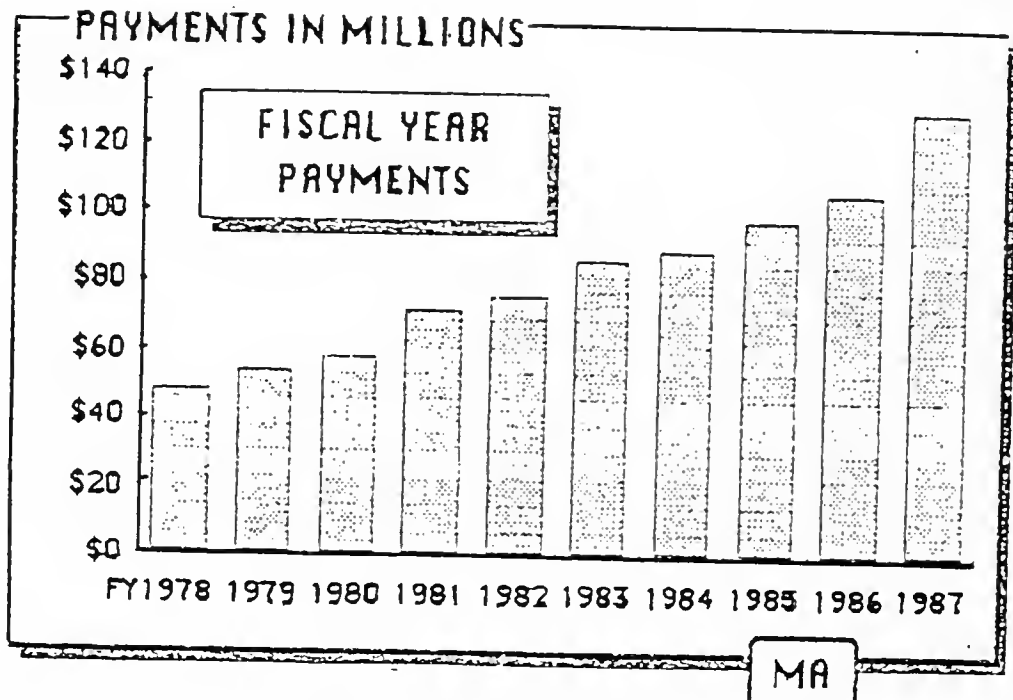
# MEDICAL ASSISTANCE (MEDICAID)

( STATE FISCAL YEAR ENDING JUNE, 1987)

## MEDICAID CASELOAD

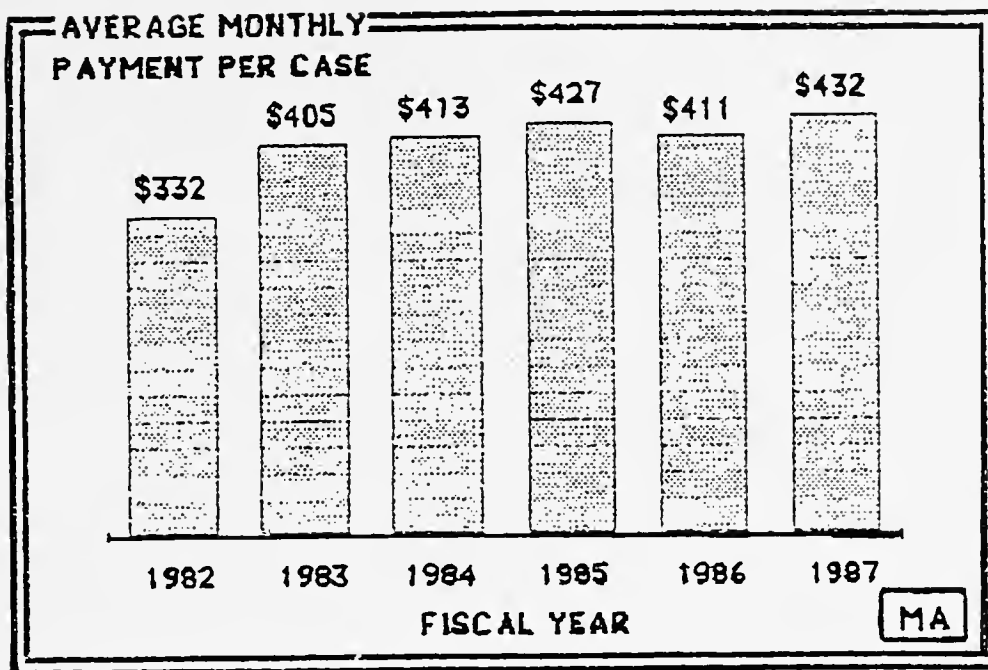


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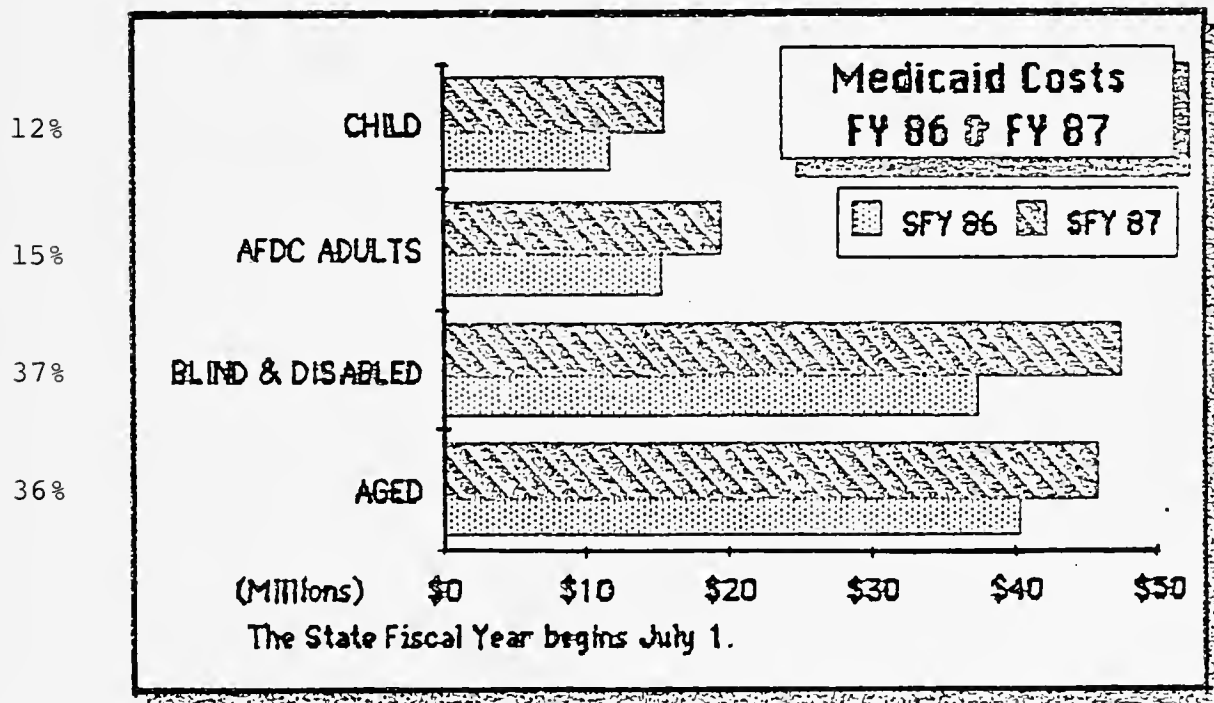
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# MEDICAID AVERAGE MONTHLY PAYMENT



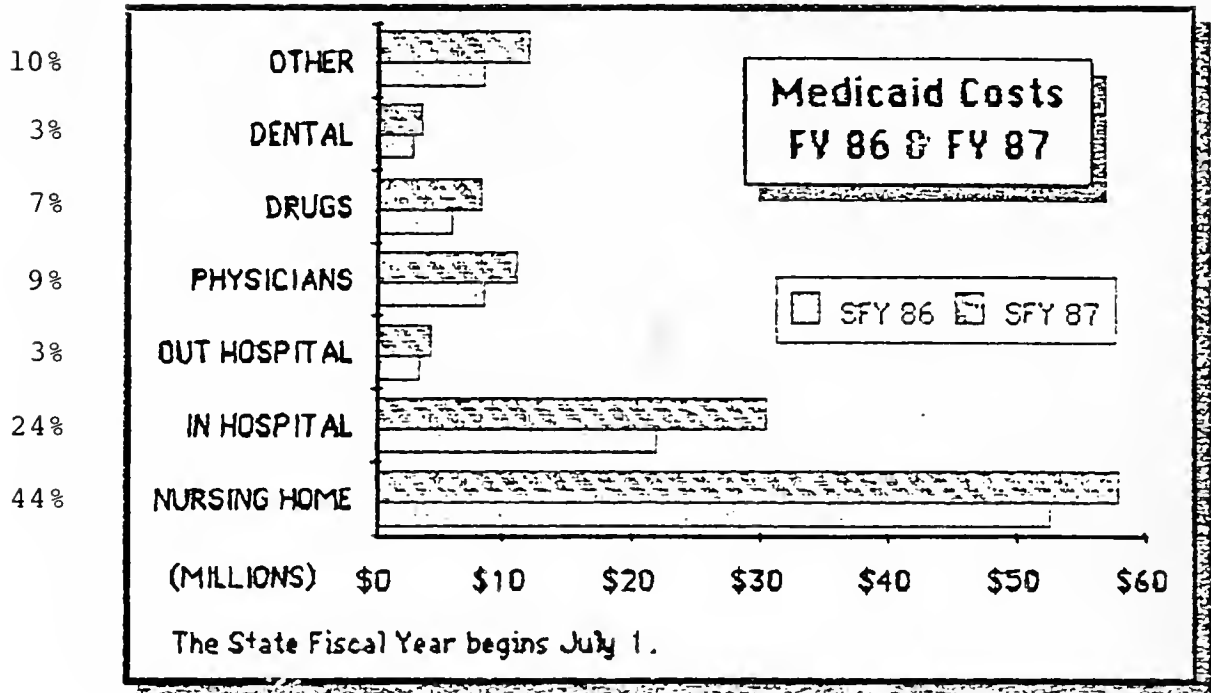
(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)

## BREAKDOWN OF COSTS BY CASELOAD



(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)

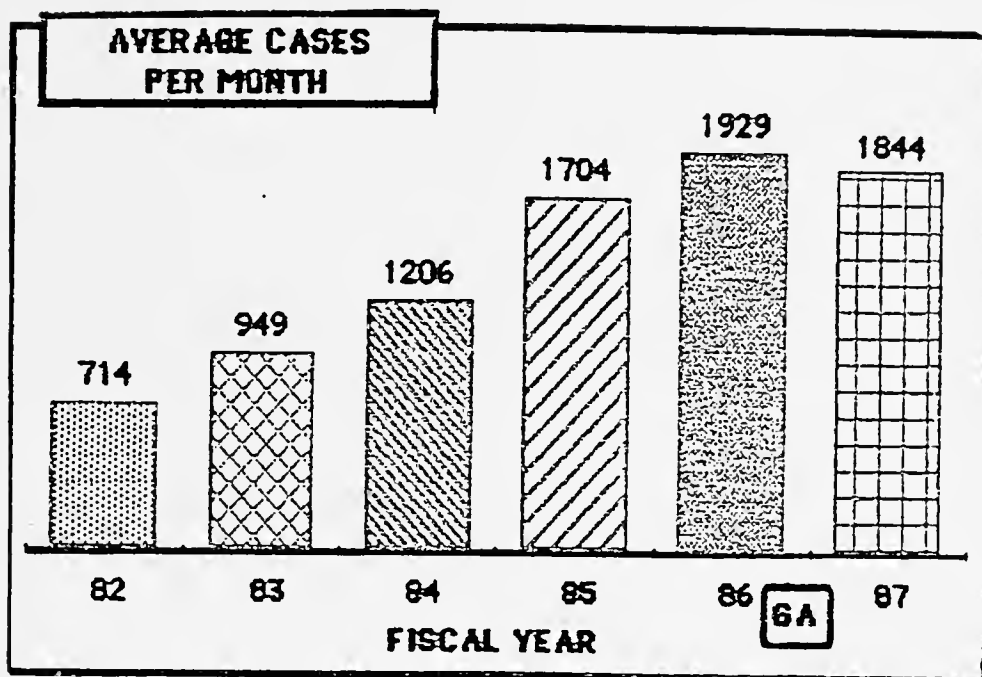
## BREAKDOWN OF COSTS BY SERVICE



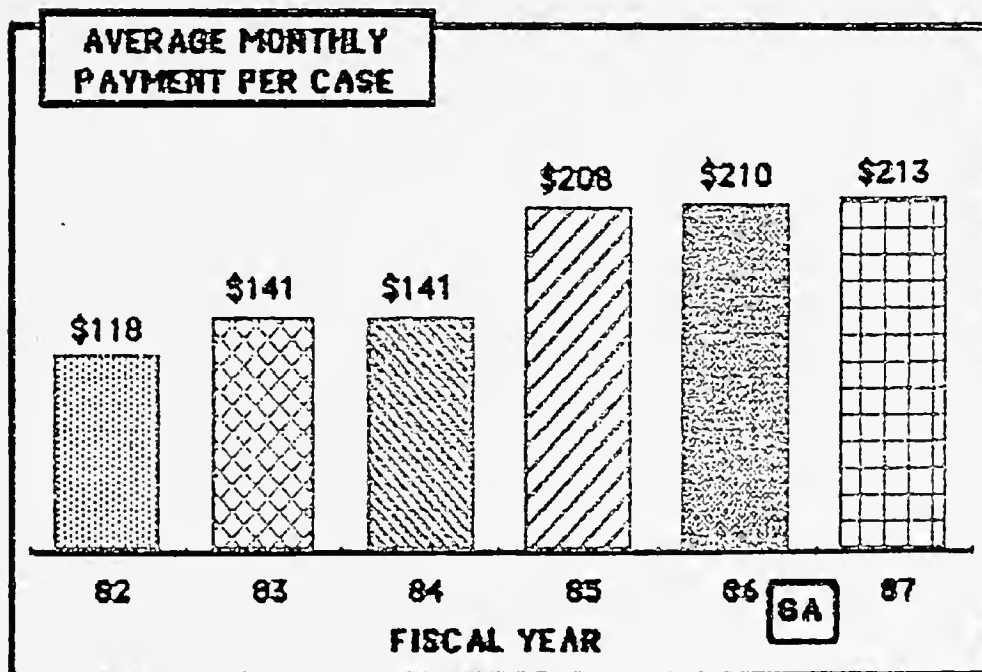
(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)



GENERAL RELIEF ASSISTANCE  
(STATE FISCAL YEAR ENDING JUNE, 1987)



(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)



(Source: Department of Social and Rehabilitation Services Statistical Report, State Fiscal Year, 1987)

Data is for state-administered counties only.

## I. Introduction

From August through November, 1985, Job Service local offices in Helena, Butte, Great Falls and Missoula conducted a special job search program for General Assistance recipients. The program was initiated due to passage of legislation in the 1985 Legislature that would eliminate welfare benefits for certain able-bodied individuals. The purpose of the program was two-fold: (1) to help transition into employment as many individuals as possible prior to the effective date of the legislation; and (2) to collect data about employability characteristics of this group.

Due to a decision of the Montana Supreme Court, the legislation has never taken effect. Nevertheless, the Job Service continued with the job search program in order to assist the recipients in finding employment and to collect data that might be useful to the legislature in finding a resolution to this difficult issue.

### Methodology

Local welfare offices in Helena, Butte, Great Falls and Missoula provided names of General Assistance recipients to staff of the local Job Service offices. In some communities, the welfare offices also directly referred the General Assistance recipients to a specific staff person at the local Job Service Office.

One staff person was designated as the primary contact in each of the Job Service offices. General Assistance recipients were referred to these individuals for a series of special services: in-depth assessment of employability; counseling; referral to social services depending on need; referral to training as appropriate; and referral to job openings listed with the office. In addition, the individuals were asked to complete a questionnaire detailing their own assessment of barriers to employment and ability or interest in finding work in-state or out-of-state.

Data was collected only on those individuals who came to the Job Service for the job search program after referral by the welfare office. The information collected, therefore, is not based on a random sample survey. Rather, the information reflects characteristics of those appearing at the Job Service office without the threat of sanction for non-appearance. Motives of the participants likely were

based on referral by welfare and/or contact by local Job Service staff; offers by Job Service staff for special assistance; and concern about legislation that was to have eliminated General Assistance benefits. No information is available about recipients who did not participate in the job search program.

Information was collected on the participants in the job search program. The information collected was: (1) a questionnaire completed by participants themselves; (2) an assessment of job readiness and barriers to employment completed by the Job Service staff person; (3) a work application filed with Job Service; (4) work history; and (5) a list of services provided to the individual during the course of the project. This information was coded and entered into a computer for analysis. A total of 632 cases are included in the analysis.

## II. Barriers to Employment

When Job Service interviewers were asked to rate whether or not G.A. recipients were job ready, they indicated that a third (33.7%) were job ready at the time of the interview. The remaining two-thirds of the recipients were rated by the interviewers as not "job ready" for a variety of reasons. If a recipient was rated as not job ready, the interviewer was asked to indicate why using a checklist of items called barriers to employment.

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TABLE 1

### JOB READINESS, DETERMINED BY INTERVIEWER

YES	33.7%	(213)
NO	66.3%	(419)

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Barriers to employment for General Assistance recipients are viewed quite differently by Job Service interviewers, as compared to the recipients themselves.

Interviewers mentioned the presence of "barriers to employment" for a larger number of recipients than did the recipients themselves. G.A. recipients most often mentioned that a "lack of jobs" was the reason for their unemployment. Many recipients also felt that "lack of skills or experience" kept them out of the job market. Other possible

barriers to employment, such as appearance, hygiene, attitude, lack of telephone, work history, lack of job hunting skills, and transportation were seldom mentioned by the recipients.

In contrast, however, the Job Service interviewers indicated sizeable percentages of the applicants were unemployed due to other reasons. Interviewers indicated most often that being "out of the labor market" for one year or longer was a barrier to employment. Interviewers indicated that nearly half of all recipients were hindered from gaining employment for this reason.

Interviewers also felt that lack of skills and/or experience was a problem for nearly a third of the recipients. Interviewers also ranked "lack of transportation", "no address/phone" and "poor job hunting skills" as barriers for approximately a third of the recipients. Interviewers felt that appearance, poor hygiene, poor work history, and chronic health problems were barriers to employment for 10% to 20% of the recipients.

Although not mentioned by recipients, interviewers' assessments that lack of phones, permanent addresses, and cars or other transportation pose employment barriers for a great many people merit consideration. It is difficult to know whether lack of these facilities is cause or effect of employment barriers. However, these are well-defined problems which program managers may wish to address.

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TABLE 2

PERCEIVED BARRIERS TO EMPLOYMENT

COMPARISON OF G.A. RECIPIENTS SELF-ASSESSMENT  
WITH JOB SERVICE INTERVIEWER ASSESSMENT

BARRIER	G.A. RECIPIENT	JOB SERVICE INTERVIEWER
APPEARANCE	0.6%	17.6%
POOR HYGIENE	0.3%	10.4%
LACK SKILLS AND EXPERIENCE	13.4%	34.2%
SPECIAL SKILLS NO DEMAND	2.1%	14.1%
NO ADDRESS/PHONE	2.4%	28.5%

EDUCATION	2.8%	18.5%
POOR WORK HISTORY	1.6%	13.4%
POOR ATTITUDE	0.6%	5.2%
POOR JOB HUNT SKILLS	1.3%	30.2%
DRUG/ALCOHOL ABUSE	0.6%	5.5%
CHRONIC HEALTH	6.6%	14.6%
TRANSPORTATION/CAR	7.4%	39.1%
OUT OF LABOR MARKET	0.8%	43.5%
LACK OF JOBS	33.1%	NA
OTHER BARRIERS	0.2%	15.7%

-----

When G.A. recipients were specifically asked whether they had any physical problems preventing them from finding employment, the majority indicated that this was not the case. However, about 15% stated that they did have physical problems preventing them from finding employment. Evidently, either these recipients have not applied for Social Security benefits or their physical problems were not considered severe enough to qualify recipients for disability benefits. (See Table 3.)

-----

TABLE 3

PHYSICAL PROBLEMS PREVENTING EMPLOYMENT

YES	%	( )
NO	%	( )

-----

Recipients were asked whether they had skills or experience that would help them find work in Montana. Then they were asked whether they had skills or experience that would help them find work outside Montana. The greatest number of responses to each of these questions indicated that they had either the skills or experience to find employment. (See Table 4.)

-----

TABLE 4

JOB SKILLS OR EXPERIENCE TO FIND WORK

	MONTANA	OUTSIDE MONTANA
YES	60.6%	42.5%
NO	14.6%	16.8%
NO ANSWER	24.8%	40.5%
	-----	-----
TOTAL	100.0% (N=632)	100.0% (N=632)

=====

To each of these questions, a large number of recipients did not respond, which may indicate for some recipients an uncertainty regarding the marketability of their skills or experience. It appears that about 20% of the recipients who feel they have skills or experience useful in Montana, refrained from indicating whether their skills or experience would help them find work outside Montana. A reluctance to move can probably also be inferred from this response when considered along with the information on Table 5.

-----

TABLE 5

"WOULD YOU MOVE IF WORK WERE AVAILABLE  
OUTSIDE YOUR COMMUNITY?"

YES	50.0%
MAYBE	7.4%
NO	18.4%
NO ANSWER	24.2%
	-----
	100.0% (N=632)

-----

About 65% of the recipients state that they would need financial assistance in order to move. Only a small percent

(5.4%) indicate that they would need no assistance to move. The remainder did not respond. (See Table 6.)

---

TABLE 6

FINANCIAL ASSISTANCE TO MOVE

YES	64.7%
NO	5.4%
NO ANSWER	29.9%
	-----
	100.0% (N=632)

---

When recipients were asked what they felt they needed to get a job, about a third had no answer. It can be inferred they didn't need anything additional, and that their unemployment was a result of the economy. About 10% directly stated their unemployment was a result of the economy. However, another third of the recipients stated that more training or education was needed, and a few indicated that a combination of education and experience was needed. The remaining responses were divided among needs of job-hunting skills, clothing appearance, and "other."

This conceptualization lines up with responses from applicants regarding current job skills and experience. (See Table 7.)

---

TABLE 7

G.A. SKILLS AND EXPERIENCE

JOB SKILLS		EXPERIENCE	
NO LICENSE, TRAINING	74.8%	NO EXPERIENCE	56.0%
LICENSE, TRAINING	25.2%	1 YR. OR MORE EXPERIENCE	44.0%
	-----		-----
TOTAL	100.0%	TOTAL	100.0%
	(N=632)		(N=632)

---

### III. Characteristics of General Assistance Recipients

More than two-thirds of all recipients are male. A total of 71.5% are male and 28.5% are female. Most of the recipients are single, followed by two-member families and then three-member families, as shown on the following table.

---

TABLE 8  
FAMILY SIZE

1	59.7%
2	16.5%
3 - 4	13.4%
5 - 7	3.3%
8 OR MORE	0.6%
UNKNOWN	6.5%
	-----
	100.0% (N=632)

---

The recipients were served in the Great Falls, Helena, Missoula and Butte local Job Service offices. The following table shows the percentage of recipients representing each city.

---

TABLE 9

JOB SERVICE OFFICE VISITED	
GREAT FALLS	6.6%
HELENA	25.2%
MISSOULA	30.1%
BUTTE	35.4%
UNKNOWN	2.7%



-----

TOTAL

100.0% (N=632)

-----

All age groups tend to be represented among G.A. recipients in this study, although there are somewhat larger percentages of people in their twenties and thirties than in other age groups. (See Table 10.)

The level of education varies from less than eight years to graduate level training, with the largest group having a high school education (40.3%), followed by those with some high school (32.4%). It may be significant to note that nearly 50% have not finished high school or attained a Graduate Equivalency Diploma (GED). Only 1.1% of G.A. recipients are high school students, while 40.8% are high school dropouts. This data is shown on Table 11.

More than 85% of recipients are white. The remaining fifteen percent of the recipients is made up of minority groups, indicating they are somewhat overrepresented in proportion to their composition in the state's population. Statewide, 6.3% of the population is non-white, while 4.8% of the civilian labor force is non-white. The unemployment rate for non-whites is 15.7% compared to an unemployment rate of 6.5% for whites. Non-whites make up 16.7% of the economically disadvantaged population age 16 or over.

-----

TABLE 10

AGE OF GENERAL ASSISTANCE RECIPIENTS

UNDER 17 YEARS	1.1%
18 - 21 YEARS	13.4%
22 - 30 YEARS	28.5%
31 - 40 YEARS	25.9%
41 - 50 YEARS	18.4%
51 - 60 YEARS	11.6%
UNKNOWN	1.1%
	-----
TOTAL	100.0% (N=632)

-----

TABLE 11  
YEARS OF EDUCATION

LESS THAN 8 YEARS	4.1%
8 YEARS	10.9%
9 - 11 YEARS	32.4%
12 YEARS	41.3%
13 - 15	9.0%
16 YEARS	1.9%
MORE THAN 16 YEARS	0.3%
	-----
TOTAL	100.0% (N=632)

TABLE 12  
ETHNICITY

WHITE	85.6%
NATIVE AMERICAN	9.0%
BLACK	2.1%
HISPANIC	3.2%
ASIAN	0.0%
UNKNOWN	0.2%
	-----
TOTAL	100.0% (N=632)

Nearly all recipients (99.1%) are American citizens, and almost none are migrant farmworkers (0.3%). At the time of application at the Job Service, most are not displaced workers (95.9%) and most are not unemployment insurance claimants (95.1%).

Slightly more than half have driver's licenses, and about 12.7% have chauffeur's licenses. The following table illustrates the low number of recipients with driver's licenses, which might be a barrier to finding and holding a job. It can be speculated this fact is related to the high number of recipients who state they have no access to a car or other transportation. However, it might also mean the recipients simply cannot afford to pay fees associated with a driver's license, and simply drive without one.

-----

TABLE 13

DRIVER'S LICENSES

YES	54.0%	
NO	43.7%	
NO ANSWER	2.4%	
	-----	
TOTAL	100.0%	(N=632)

-----

The length of time G.A. recipients have lived in Montana varies from a few months to all of their lives. The largest number of recipients (37.3%) have lived in Montana for ten years or more as shown on Table 14. Nearly half the recipients (47.8%) have been in Montana four years or more. About 16% have been in Montana for less than a year. This data indicates that the greatest number of people have been in the state for many years, while a significant number have been in the state less than three months. This bimodal distribution indicates an interesting problem for social program planners, because a significant number of recipients are long-term state residents. At the same time, however, a certain percentage of the recipients are probably leading a more transient lifestyle.

The length of time recipients have lived within a particular community, as shown on Table 14, follows a similar pattern. That is, of responses obtained, the largest percentage (24.2%) had lived in their particular community for ten years or more, while more than 20% had been in a particular community for less than a year. A comparison of length of time in a community with length of time in Montana indicates there is more intrastate movement from community to community than interstate movement from outside Montana.

-----

TABLE 14

LENGTH OF TIME IN MONTANA AND IN A COMMUNITY

	IN MONTANA	IN A COMMUNITY
LESS THAN 3 MONTHS	10.6%	15.0%
4 - 6 MONTHS	3.2%	5.5%
7 - 11 MONTHS	2.4%	2.7%
1 - 3 YEARS	8.7%	12.7%
4 - 5 YEARS	5.1%	5.2%
6 - 10 YEARS	5.4%	5.1%
MORE THAN 10 YEARS	37.3%	24.2%
NO ANSWER	27.4%	29.6%
	-----	-----
TOTAL	100.0%	100.0%
	(N=632)	(N=632)

-----

The greatest portion of G.A. recipients have been looking for work for either less than three months or from one to three years. After three years, the percentage declines significantly, and only ten percent continue to look for work. At least half of all recipients would be willing to move from their community if work were available elsewhere. And less than 20% would not move to obtain work elsewhere.

-----

TABLE 15

LENGTH OF TIME SEEKING WORK

	IN MONTANA	IN COMMUNITY
LESS THAN 3 MONTHS	????	?????
4 - 6 MONTHS	9.5%	9.0%

7 - 11 MONTHS	4.6%	4.7%
1 - 3 YEARS	21.4%	20.6%
4 - 5 YEARS	5.9%	4.9%
MORE THAN 5 YEARS	5.1%	3.3%
NO ANSWER	????	????
	-----	-----
TOTAL	100.0%	100.0%
	(N=632)	(N=632)

-----

Recipients reported that if they were to move, 64.7% would need financial assistance. Only 5.4% would not need financial assistance in moving to obtain employment. (See Table 16.)

-----

TABLE 16

FINANCIAL ASSISTANCE TO MOVE

YES	64.7%
NO	5.4%
NO ANSWER	29.9%
	-----
TOTAL	100.0%

-----

Over half of the recipients (55.5%) indicated they look for work two or more times per week. A small number (8.1%) say they look for work less than once a week, irregularly, or not at all. (See Table 17.)

-----

TABLE 17

FREQUENCY OF SEEKING WORK

NOT LOOKING OR LOOKING IRREGULARLY	6.5%
LOOKING LESS THAN ONCE A WEEK	1.6%

LOOKING AT LEAST ONCE A WEEK	6.6%
LOOKING 2 - 3 TIMES A WEEK	18.8%
LOOKING 4 OR MORE TIMES A WEEK	36.7%
NO ANSWER	29.7%
	-----
TOTAL	100.0%
	(N=632)

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DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES

69



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

May 10, 1988

TO: Matt Shearer  
Governor's Office

FROM: Russ Cater *RC*  
Chief Legal Counsel

RE: Human Services Task Force

Pursuant to your request I have reviewed the "fundamental policy and welfare reform" section of the Human Services Task Force Manual. This section includes pages 16 through 23 which has been revised as of May 3, 1988. My review has been limited to the scope of identifying potential legal problems.

The drafting of a "fundamental policy" statement is indeed a very difficult task. One must take into account the needs of the poor in Montana, as well as financial and legal considerations. From a legal standpoint utmost consideration must be given to Article XII, section 3, subsection 3 of Montana's Constitution. In addition, we must balance the development of any program established under the "middle-tier" scrutiny adopted by the Montana Supreme Court when interpreting questions of equal protection. In light of these legal requirements I have concluded that there is no notable problems that I can pinpoint with respect to the policy statement. Of course, this may change depending upon the specifics as to how the policy statement is implemented.

My previous concerns to the policy statement centered around language which would allow the Department authority to grant "variances". My concern in this area is that variances are typically struck down by the courts as a violation of the "due process" clause of the federal and state constitution. In order to treat individuals on an equal basis and to provide them with a knowledge as to whether or not they are eligible for welfare programs it is essential that standards be established. Exceptions or variances may be granted but only in those situations where the details of the exceptions are specific. Montana's Supreme Court has been reluctant to grant state agencies broad authority to grant variances or exceptions unless legislative language

Matt Shearer  
May 10, 1988  
Page 2

70

specifically spells out the instances in which they may be granted. It is my understanding, however, that this language has been removed from the policy statement.

If further revisions are made to the policy statement I will be more than willing to review the changes. If you have any questions please feel free to call.

REC/rm



## Wisconsin Welfare Reform

Wisconsin's current welfare reform initiative is based on the expectations that Wisconsin citizens should be self sufficient through gainful employment, Wisconsin parents should be economically responsible for their children, and that Wisconsin teenagers have options for self sufficiency other than teen parenthood.

### WORK

Work is the cornerstone of Wisconsin welfare reform. We realize that in order to be self sufficient through work, an individual must have the skills necessary to be employable, have the opportunity to get a job and have an economic incentive to work. To help achieve the three components of skill, opportunity and incentive, Wisconsin has secured the following waivers of existing federal regulations:

- 1) Wisconsin Learnfare - To allow Wisconsin to require 31,500 teenagers, including teen mothers, to stay in school or lose AFDC benefits.
- 2) Employment and Training - To allow Wisconsin to require the parent, or other caretaker relative of a child older than three months of age, and both parents in a two parent household, to participate in work and training programs.
- 3) Earned Income Incentive - To allow Wisconsin to modify the \$30 and one-third income disregard to spread the effect of earned income more gradually over time. The current disregard would be replaced with a constant disregard of \$30 and 1/6 over a period of 12 months.
- 4) Extension of Medical Assistance Benefit - To allow Wisconsin to extend Medical Assistance benefits for 12 months to all recipients who have left AFDC to work. This approach will increase the incentive for AFDC recipients to seek and retain employment.

In addition to securing federal waivers, Wisconsin is investing additional state dollars in the following employment and training programs:

- 1) Work Experience and Job Training - This program provides a broad array of employment and training services including assessment, remedial education, high school equivalency, job search, vocational training, work experience, on the job training and workfare. Approximately 10,000 participants will be served in 14-16 counties at a cost of \$9 million in state funds.
- 2) Community Work Experience Program/Workfare - Will serve an estimated 1,600 participants at a cost of \$800,000 in state funds.
- 3) Work Supplementation - On the job training funded by diverted welfare grants.

- 4) Supported Work - This program, to be contracted to the private sector, will train and place 150 hard to place participants in private sector jobs at a cost of \$540,000 over eighteen months.
- 5) Work Incentive in the Child Support Assurance Program - A pilot program in two Wisconsin counties will change the monthly welfare payment relative to earned income for AFDC cases that are single parent families with child support orders. The payment change results in a stronger work incentive.
- 6) Day Care Employment - Two pilot day care centers that employ some AFDC recipients will be established in counties that have the Work Experience and Job Training programs.
- 7) Post Work Program Childcare - \$3.2 million in state funds during 1988-89 will be spent on child care for persons who have completed either the Community Work Experience or Work Experience and Job Training Programs.
- 8) Health Insurance Work Incentive - The Medical Assistance income eligibility standard will be raised to 133 1/3% of the AFDC grant level for medically needy families. This provides an incentive to stay employed rather than go on AFDC to receive adequate medical insurance. The cost for increased coverage is \$2.3 million for the biennium.
- 9) AFDC Case Management - AFDC recipients in two Work Employment and Job Training pilot counties will be assigned a case manager. The case manager will develop a contract with the client that conveys the expectation of achieving self-sufficiency. The cost of the program in state funds is \$148,500 for one year.
- 10) Priority Day Care - Children of teenage mothers will be given priority for day care. This will enable teen mothers to attend school.

#### PARENTAL RESPONSIBILITY

Wisconsin taxpayers do not want to support the children of parents who are able to work and support their own children but choose not to. The following initiatives and changes related to establishing paternity and securing child support payments are currently being implemented:

- 1) Child Support Assurance Program - This program, expected to be piloted in two Wisconsin counties, seeks to increase child support orders and payments and creates a minimum benefit for children. The new payment scale provides a stronger financial work incentive than under AFDC.
- 2) Eliminate Milwaukee County Paternity Establishment Backlog - Initiate a one time \$300,000 effort to reduce the backlog.

- 3) Paternity Establishment - When fathers are not named on the birth certificate, pursuit of child support is required within six months. Paternity cases may be reopened within one year as long as the respondent undergoes a blood test. A provision was added to allow that in cases where a man other than a woman's husband is alleging to be the father of the woman's child, the court may determine that it is not in the best interest of the child to establish paternity and the court may dismiss the case.
- 4) Support Orders - Child support agencies will be required to pursue child support orders for all non-custodial parents whose children are receiving AFDC.
- 5) Employment and Training for Unemployed Non-Custodial Parents - Judges will be required to require unemployed non-custodial parents of children on AFDC to participate in employment and training activities.
- 6) Retroactive Adjustment of Orders Prohibited - Implement new federal requirement prohibiting retroactive adjustments to child support orders.
- 7) Withhold Benefits for Non-Payment of Child Support - Persons who have not made their child support payments will have benefits from certain state operated programs withheld. This provision will not apply to emergency grant programs for veterans.

#### OPTIONS TO TEEN PARENTHOOD

Six percent of Wisconsin's AFDC caseload is comprised of families headed by a teen parent. AFDC recipients who become parents in their teenage years tend to be long term welfare clients. Wisconsin is implementing the following programs to try to reduce the incidence of teen parenthood:

- 1) CHOICES - This program mobilizes and links civic organizations, schools, job training resources, social service agencies and advocacy groups to help develop resources and heighten community awareness of teen pregnancy and other factors contributing to young women being on public assistance. In addition, pregnancy prevention (\$500,000 per year) and self-sufficiency grants (\$582,100 per year) will be available and targeted to counties in the greatest need of these services. The purposes of these grants are to improve teenager's decision-making and communication skills, promote high school graduation and vocational preparation, expand career options, prevent pregnancies, and strengthen adolescent parents' social and parenting skills.
- 2) Remove Family Planning Disincentive - Exempt certain health care providers from the requirement to report, as suspected or threatened child abuse, sexual intercourse or contact involving a minor who receives family planning, pregnancy testing, or similar services.

In addition to the preceding measures which have already been adopted in law, Governor Thompson has proposed the following new initiatives to further expand welfare reform in Wisconsin. This package has not yet been adopted by the Legislature.

- Extend employment and training programs to AFDC recipients in all 72 Wisconsin counties.
  - Expand post-program day care to new participants, so that those who find jobs and leave welfare would be eligible for up to 12 months of day care after they leave.
  - Require all non-custodial parents to pay child support, even if they are unemployed.
  - Provide state-funded Medicaid benefits to pregnant women and children through age 2 in families below the federal poverty line.
  - Provide incentives to counties for the establishment of paternity in cases involving teenagers.
- /

# THE WISCONSIN CHILD SUPPORT ASSURANCE SYSTEM --

## A BRIEF DESCRIPTION

### Introduction

Traditionally, Wisconsin -- like other states -- has provided for the support of children, who live with only one parent because their parents are divorced, separated or never married, with a child support system which consisted of three components:

1. the determination by a court of the amount of child support to be paid by the noncustodial parent on an individualized basis;
2. the payment of that support obligation directly by the noncustodial parent with public enforcement only in cases of default; and
3. a two-tiered payment system consisting of:
  - a. direct payments ordered by the courts from noncustodial parents, and
  - b. public payments for children with noncustodial parents who are unable or unwilling to pay or who are not legally liable for support (the Aid to Families with Dependent Children program).

This system was not able to do the job of providing for children. Despite Wisconsin's outstanding record in the collection of child support when compared to other states, over 150,000 children in single parent households do not receive sufficient support from their noncustodial parents. In addition, the structure of the AFDC program functions as a deterrent to custodial parent employment for some recipients, making it more difficult for them to help provide for the financial support of their children.

The Child Support Assurance System (CSAS) being developed in Wisconsin proposes to address the inadequacies and inequities in the traditional system by making changes in all three components. It provides for:

1. the use of a percentage standard for establishing the amount of the noncustodial parent's child support obligation (the percentage of gross income and assets standard);
2. the use of a system of immediate income withholding to

collect the child support obligations;

3. the establishment of a minimum child support level, called the assured child support level;
4. the payment of a public contribution, the child support supplement, when necessary, so that all eligible children receive the assured child support level; and
5. the payment of a work expense offset to the custodial parent based on hours worked, to defray the costs associated with employment.

Implementation of the proposed program will help to achieve the major objectives of the Child Support Assurance System, which are:

1. to increase the adequacy and equity of child support awards (through the use of the percentage standard);
2. to increase the payments of child support obligations (through the use of the standard and immediate income withholding);
3. to increase the timeliness and regularity of payments to the custodial parent (through the use of immediate income withholding and the child support supplement); and
4. to encourage self-sufficiency and independence from welfare of families with children eligible for child support (through the use of the standard, income withholding, the child support supplement and the work expense offset).

#### The Percentage of Gross Income and Assets Standard:

The term "percentage standard" is used to describe a set formula that determines the amount of the child support obligation by taking a percentage of the gross income and assets, based on the number of children for whom that parent is responsible. The rationale for basing the amount of the parental support on a pre-determined percentage of income instead of on an individualized judicial determination is that:

1. it is the best method of achieving equitable parental financial responsibility (e.g., making child support awards more uniform); and
2. it is more efficient and economical than the present system.

Beginning August 1, 1987, state law required that the courts use the percentage standard in determining child support orders for the noncustodial parent unless it finds, by a clear preponderance of the

evidence, that application of the percentage would be unfair to the child or a party. Application of the standard requires that the non-custodial parent contribute to the support of the child(ren) at the rate of 17% for one child, 25% for two, 29% for three, 31% for four and 34% for five or more children.

#### Immediate Income Withholding:

Since 1964, Wisconsin law has permitted child support to be withheld from wages upon demonstration that the payor has been delinquent in making payments. In 1983, legislation was enacted permitting the Department of Health and Social Services to contract with up to 10 counties to pilot immediate income withholding. In these counties, child support orders are accompanied by income withholding orders to employers, ordering them to withhold child support from the employee's paycheck and forward it to the clerk of courts. Exceptions to this rule occur when the noncustodial parent demonstrates that income withholding will cause demonstrable harm, or for other suitable reasons as determined by the courts.

Since the original 10 pilot counties began implementing immediate income withholding, legislation permitting additional counties to participate has been enacted. In May, 1986, approximately 35 counties participated. The use of immediate income withholding became a statewide practice on August 1, 1987.

#### The Assured Child Support Level:

The assured child support level (ACSL) is the standard of support to which eligible children are entitled. Both parents are expected to contribute financially to the support of their child(ren), but if they are unable to provide the minimum, as established in the assured child support level, the state will make up the difference.

The Committee for Review of Initiatives in Child Support (CRICS), a citizen advisory committee appointed to help in the development of the Child Support Assurance System, has recommended to the Department that the assured child support level should be equal to \$3,000 per year for one child, and should rise at the same rate that AFDC grant levels increase for additional children. That is:

Assured child support levels:

<u>No. of children</u>	<u>Annual</u>	<u>Monthly</u>
1	\$3,000	\$250
2	3,528	294
3	4,222	352

4	4,828	402
5	5,224	435
6 or more	5,653	471

The Department's policy requires that the amounts be less than the AFDC grant level for the same size family units.

#### The Child Support Supplement:

The Supplement is the public subsidy to be paid whenever the parents of eligible children are unable to provide financial support at least equal to the assured child support level for their child(ren). The assured child support level (a fixed number) is the sum of three components: the noncustodial contribution plus the custodial contribution plus the child support supplement. Thus, the child support supplement equals the assured child support level minus the sum of the parental contributions.

The non-custodial parent's contribution will ordinarily be equal to the court ordered child support obligation. In order to participate in the Child Support Assurance System, the custodial parent will also be required to provide financial support for the child(ren). This is referred to as the custodial contribution. The Department has adopted the recommendation that the custodial contribution be set by applying the appropriate percentage, as determined in the Percentage Standard, to the custodial parent's income.

#### The Work Expense Offset:

One of the basic premises of the Child Support Assurance System is that some custodial parents would choose, if it were a realistic option, to increase their earned income, thereby improving their financial condition and reducing their dependency on public assistance. Some of the barriers to increased employment are costs associated with employment, including particularly, child care expenses. (Loss of eligibility for Medical Assistance may also deter some who are eligible for AFDC from seeking additional employment that would render them ineligible for AFDC or MA benefits.)

To partially compensate the custodial parent for employment related costs and to help ensure that employment is a realistic option, the Department has decided to implement a work expense offset. Custodial parents will be eligible to receive a work expense offset equal to one dollar per hour of employment if there is one eligible child, and \$1.75 per hour if there are two or more eligible children. That is, for each hour worked, the custodial parent would receive an additional dollar of compensation from the Child Support Assurance System program funds subject to the following conditions:



(1) the custodial parent provides the necessary documentation; and  
 (2) family income does not exceed certain amounts (see further discussion under "Financial Eligibility").

#### Non-Financial Eligibility for the Child Support Assurance System:

These eligibility conditions are designed for the early phases of implementation of the Child Support Assurance System. As the Department gains experience with the system, some may be eliminated or amended to expand eligibility. In order for a child to be eligible:

1. there must be a living noncustodial parent;
2. the noncustodial parent's obligation must be established by Wisconsin court order;
3. the custodial parent must cooperate in securing child support payments;
4. the child must be a Wisconsin resident;
5. the child must be less than 18 years of age, or 19 years of age if she or he is pursuing an accredited course of instruction leading to the acquisition of a high school diploma or its equivalent.

It should be noted that citizenship of the child or the parents does not affect eligibility, and that an unmarried child who parents a child may continue to be eligible for participation in the program. In addition, use of the percentage standard in establishing the noncustodial obligation, or use of immediate income withholding are not conditions of eligibility, although their use will be encouraged.

#### Financial Eligibility for the CSAS:

The requirement that the custodial parent make a custodial contribution to the support of the child(ren) yields an implicit limit on the income the custodial parent may have while retaining eligibility to receive the child support supplement. This is a consequence of the fact that as custodial income rises high enough, the custodial contribution, when combined with the noncustodial contribution, would eventually exceed the assured child support level. At this level of income the child support supplement would equal zero and the custodial parent would receive only the child support paid by the noncustodial parent.

In addition, the Department has established an income ceiling, equal to \$16,000 annually. Those with income above this level are not eligible to receive the Child Support Supplement or the Work Expense Offset.

### How Does It Work?

The custodial parent will be assured of receiving the noncustodial parent's child support obligation or the Assured Child Support Level, whichever is larger. On the first of each month each participating custodial parent will receive a check equal to the Assured Child Support Level minus the imputed amount of the custodial parent contribution. If, during the remainder of that month, current child support paid by the noncustodial parent exceeds the check amount, the custodial parent will receive the excess.

To enable the Department to estimate the amount of the custodial contribution, participating custodial parents must provide periodic income information. An annual reconciliation will determine if the Department has over or underpaid the custodial parent.

The Department will continue efforts to enforce child support orders to ensure that the noncustodial parents pay an equitable amount toward the support of their child(ren).

The work expense offset will be paid to eligible custodial parents in the month after the employment eligible for subsidy occurs. If the custodial parent wishes to receive the work expense offset, he or she will submit documentation of the number of hours worked, monthly income and step-parent income, if applicable.

Participating custodial parents must inform the Department of occurrences that can affect eligibility or payments. These include changes in income, marital status, and residence of custodial children.

### Eligibility for Other Programs:

The Child Support Assurance System will initially be implemented in a few pilot counties. The state will continue to operate an AFDC program in those counties that is the same as the AFDC program being operated in non-pilot counties. That is, the Child Support Assurance System will be implemented in addition to the ongoing AFDC program.

Participation in the Child Support Assurance System will not automatically disqualify people from applying for AFDC. The non-custodial child support, the child support supplement and the work expense offset will be treated as unearned income for purposes of calculating financial eligibility for AFDC and for determining grant levels. Non-custodial child support, up to a maximum of \$50 per month, will be disregarded in the calculation of the AFDC grant level. The Department anticipates that most people who receive the child support supplement will be categorically or financially ineligible to receive AFDC. However, some people who are eligible to receive AFDC may chose to receive both the child support supplement and AFDC.

In addition, participants in the Child Support Assurance System may chose to apply for food stamps. For calculation of food stamp benefits, the non-custodial child support, the child support supplement and the work expense offset will be treated as unearned income.

Participants in the Child Support Assurance System will be eligible to apply for state-subsidized child care. Non-custodial child support, the child support supplement and the work expense offset will be included as income in determining the amount, if any, of the child care subsidy.

For more information, contact: Ada Skyles, Director  
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12/8/87



# Child Support



# Law Report

*DCS Office of Child Support*

*State of Wisconsin*

Volume 39

August 1987

## SPECIAL LEGISLATIVE ISSUE

This special issue of the Office of Child Support Enforcement (OCSE) Law Report focuses on recent changes in the Wisconsin laws affecting child support enforcement. The 1987 Budget Bill (1987 Wisconsin Act 27) made various changes in the law which will have a significant impact on child support, including restrictions on arrearage reductions (effective August 1, 1987) and changes in paternity procedures (effective October 1, 1987 and July 1, 1988).

The date of passage of the Budget Bill also marked a significant change in Wisconsin law with respect to enforcing child support orders. On that date, immediate income withholding became mandatory statewide. An article in this issue will outline the legal process required to implement income assignments in this state.

Also enclosed is a copy of revised Chapter HSS 80, relating to the Percentage Standard for Setting Child Support. The Percentage Standard became the presumptive method of setting child support in Wisconsin on July 1, 1987. The amendments to Chapter HSS 80 become effective September 1, 1987.

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## TABLE OF CONTENTS

- I. 1987 WISCONSIN ACT 27
  - A. Economic Assistance to Veterans
  - B. Child Support Program Changes
  - C. Child Support Data System
  - D. Other Enforcement Provisions
  - E. Paternity Statutes
  - F. Nonstatutory Provisions, Applicability and Effective Dates
- II. LAW NOTE: IMMEDIATE INCOME WITHHOLDING
- III. CHAPTER HSS 80, WISCONSIN ADMINISTRATIVE CODE, THE PERCENTAGE OF INCOME STANDARD

## LAW NOTE by Connie Chesnik

August 1, 1987, the effective date of the 1987-89 budget, marked a significant change in the Wisconsin Statutes with respect to the use of immediate income withholding to enforce child and family support and maintenance orders. On that date, mandatory immediate income withholding on all new child support orders and revisions of judgment took effect statewide pursuant to the provisions of Wis. Stats. sec. 767.265.

Prior to the date of the budget passage, immediate income withholding was being piloted in 45 Wisconsin counties.

Under the new law, each temporary or final order for child support under s. 767.23 or 767.25, for maintenance payments under s. 767.23 or 767.26, for family support under s. 767.261, for support by a spouse under s. 767.02(1)(f) or for maintenance payments under s. 767.02(1)(g), each court-approved stipulation for child support under s. 767.10 and each order for child or spousal support entered under s. 940.27(7) constitutes an assignment of all income which requires withholding sufficient to meet the payments required under the court order. Under prior law, income assignments did not take effect immediately, except at the discretion of the court or family court commissioner. Rather, assignments were usually ordered to take effect only after the obligor had failed to make a required payment within 10 days of its due date and then only after notice and an opportunity for hearing had been provided to the obligor.

Immediate income withholding orders under s. 767.265 extend to all commissions, earnings, salaries, wages, pension benefits, benefits due under ch. 102 or ch. 108 and any other money due or to be due in the future to the clerk of court where the action is filed.

The court is required by s. 767.265(2r) to provide notice of the assignment upon the entry of each order by personal service or certified or registered mail to the obligor's employer unless the court finds that income withholding is likely to cause the payer irreparable harm. The notice should be postmarked no later than 10 days after support is ordered by the court. Wis. Stats. s. 767.265(2r) permits notice to be a notice of the court, a copy of the executed assignment or a copy of that part of the court order directing payment. Attached you will find a copy of an income withholding order which has been submitted to the Chief Judge's Subcommittee on Forms for approval for statewide use. The order specifies the amount and frequency of the payments and directs the employer to forward the money to the clerk of court in the county where the order was entered.

The income withholding order becomes effective one week after receipt by the employer of the notice of assignment and the employer is required to forward the amount withheld to the clerk within 10 days of paying the obligor. With the exception of benefits under ch. 108, the employer may deduct and retain an additional \$1 to cover their costs each time they make a support deduction.

Any employer who does not withhold the money as provided in the statutes may be fined for each payment not withheld and may be required to pay the clerk of court the amount assigned, s. 767.265(6). The same section of the statutes also permits employer's to be fined for failing to notify the clerk within 10 days after an employee is terminated or otherwise temporarily or permanently leaves employment. Employers are also forbidden by this section from discharging, disciplining or denying employment to an obligor because of an assignment. Such action may result in a fine and a requirement to make full restitution to the employee, including reinstatement and back pay.

An assignment under this section has priority over any other assignment, garnishment or similar legal process under state law s. 767.265(4).

If an employer receives more than one withholding order for the same obligor, combined payments may be sent to the clerks in the counties where the orders were entered. The provisions of the 1984 Federal Child Support Enforcement Amendments prohibit withholding more than the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 USC 1673(b)). The notice to the employer must, therefore, also include a statement that the amount to be withheld may not exceed 60 percent of the obligor's disposable earnings for that pay period or 50 percent if the obligor is supporting a second family. In either case, an additional five percent may be withheld to pay arrearages more than twelve weeks old. If the employer receives multiple withholding orders for the same obligor at least one of which is a percentage expressed order, and the total amount to be withheld exceeds the Consumer Credit Act limitations, the clerk may require the employer to furnish a wage statement for the obligor.

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CHAPTER HSS 80: AMENDMENTS TO THE PERCENTAGE STANDARD  
FOR SETTING CHILD SUPPORT

Enclosed you will find a copy of Chapter HSS 80 as amended. The amended version will take effect September 1, 1987. A public hearing on the proposed amendments was held in May followed by legislative review in the Senate Committee on the Judiciary and Assembly Committee on Children and Human Services.

The major changes in Chapter HSS 80 include a revision of the shared time formula for calculating reductions in support, deletion of the provisions on extreme income cases, modification of the treatment of a payer's assets and the treatment of depreciation. The amendments include a revised worksheet for the calculation of child support, the use of which is optional.

The percentage standard continues to be applied to gross income under the amendments, before the deduction of social security and state and federal income taxes.



ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
ADOPTING RULES

To create HSS 80, relating to the percentage of income standard to be used by courts in determining a child support obligation.

Analysis Prepared by the Department of Health and Social Services

When a court under ch. 767, Stats., grants a divorce, legal separation or annulment in an action involving minor children, or determines that paternity exists or renders a judgment in an action to compel support, the court must determine the amount either or both parents should pay for child support under s. 767.25 or 767.51, Stats. Until June 30, 1987, the court may use the percentage of income standard in these rules to determine child support. Beginning July 1, 1987, the court is required to use the percentage of income standard in these rules to determine child support unless, upon request of one of the parties, and after considering a list of factors, the court finds by clear and convincing evidence that use of the standard is unfair to the child or to any of the parties. These factors, as set out in s. 767.25(lm) Stats., are:

- The financial resources of the child
- The financial resources of both parents as determined under s. 767.255
- Maintenance received by either party
- The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902(2)
- The needs of any person, other than the child, whom either party is legally obligated to support
- The standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation
- The desirability that the custodian remain in the home as a full-time parent
- The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home
- If joint custody is awarded under s. 767.24(1)(b), any physical custody arrangements ordered or decided upon
- Extraordinary travel expenses incurred in exercising visitation rights under s. 767.245
- The physical, mental and emotional health needs of the child, including the costs of health insurance and uninsured health care for the child
- The child's educational needs
- The tax consequences to each party
- The best interests of the child
- Any other factors which the court in each case determines are relevant

If the court finds that use of the percentage standard would be unfair in a particular case, the court may consider the guidelines established under s. 46.25(9)(b), Stats., and modify the amount of child support by stating in writing or on the record its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.

Chapter HSS 80 defines the monthly income upon which the support obligation is based; includes a percentage of income for computing support payments, which varies with the number of children; incorporates a worksheet for calculating the child support obligation which takes into consideration self-employed and unemployed payers; and sets forth optional procedures for determining the child support obligations in special cases such as for a shared-time payer, a split-custody payer or a payer who has obligations to support children in two or more families.

Pursuant to authority vested in the Department of Health and Social Services by s. 46.25(9)(a), Stats., the Department of Health and Social Services hereby adopts rules interpreting s. 3023(7) of 1985 Wisconsin Act 29 and s. 46.25(9)(a), Stats., as follows:

SECTION 1. HSS 80 is created to read:

Chapter HSS 80  
CHILD SUPPORT PERCENTAGE OF INCOME STANDARD

- HSS 80.01 Introduction
- HSS 80.02 Definitions
- HSS 80.03 Support Orders
- HSS 80.04 Determining the Child Support Obligation in Special Cases
- HSS 80.05 Determining Imputed Income for Child Support

PREFACE

Section 46.25(9)(a), Stats., requires the department to adopt and publish a standard to be used by courts in determining child support obligations. The standard is to be based on a percentage of the gross income and assets of either or both parents.

The percentage standard established in this chapter is based on an analysis of national studies, including a study done by Jacques Van der Gaag as part of the Child Support Project of the Institute for Research on Poverty, University of Wisconsin, Madison, entitled "On Measuring the Cost of Children," which disclose the amount of income and disposable assets that parents use to raise their children. The standard is based on the principle that a child's standard of living should, to the degree possible, not be adversely affected because his or her parents are not living together. It determines the percentage of a parent's income and potential

income from assets that parents should contribute toward the support of children if the family does not remain together. The standard determines the minimum amount each parent is expected to contribute to the support of their children. It expects that the custodial parent shares his or her income directly with their children. It also presumes that the basic needs of the children are being met. This latter presumption may be rebutted by clear and convincing evidence that the needs of the children are not being met.

The rules also prescribe procedures for determining equitable child support obligations under a variety of financial and family circumstances.

HSS 80.01 INTRODUCTION. (1) AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of s. 46.25(9)(a), Stats., for the purpose of establishing a standard to be used in determining child support under ss. 767.02, 767.08, 767.10, 767.23, 767.25, and 767.51, Stats.

(2) APPLICABILITY. (a) This chapter applies to the party that petitions for and the party that responds to a petition for a temporary or final order for child support or family support of a marital or nonmarital child in an action affecting a family under s. 767.02, Stats., and includes stipulated child support settlements under s. 767.10, Stats. At the court's discretion, upon a finding of a substantial change of circumstances, this chapter may also apply to revisions of judgment under s. 767.32, Stats.

HSS 80.02 DEFINITIONS. In this chapter:

(1) "Adjusted base" means the monthly income at which the child support obligation is determined for serial family payers, which is the payer's base less the amount of any existing child support obligation.

(2) "Assets" means all real and personal property, including automobiles and other vehicles, real estate, profit-sharing, pension and retirement accounts, life insurance, cash and deposit accounts, stocks and bonds and business interests.

(3) "Base" means the monthly income at which the child support obligation is determined, which is calculated by adding together the payer's gross income adjusted for child support and the payer's imputed income for child support, and dividing by 12.

(4) "Child" means the natural or adopted child of the payer.

(5) "Child support" or "child support obligation" means an amount of money that a person is legally obligated to pay toward the expense of raising a child or children in an intact family or pursuant to the order of a Wisconsin court under ch. 767, Stats., or the order of a court of competent jurisdiction in another state.

(6) "Court" means a circuit court judge or family court commissioner.

(7) "Current 6-month treasury bill rate" means the yield of a U.S. government security with a term of 6 months.

(8) "Department" means the Wisconsin department of health and social services.

(9) "Dependent household member" means a person for whom a taxpayer is entitled to an exemption for the taxable year under 26 USC 151(e).

(10) "Family support" means an amount which a person is legally obligated to pay pursuant to an order under s. 767.261, Stats., as a substitute for child support under s. 767.25, Stats., and maintenance payments under s. 767.26, Stats.

(11) "Federal dependency exemption" means the deduction allowed in computing taxable income pursuant to 26 USC 151(e) for a child of the taxpayer who has not attained the age of 19 or who is a student.

(12) "Gross income" means all income as defined under 26 CFR 1.61-1 that is derived from any source and realized in any form, whether money, property or services, and whether reported as total income on the payer's federal tax return or exempt from being taxed under federal law.

(13) "Gross income adjusted for child support" means gross income adjusted by adding wages paid to dependent household members, the business assets depreciation allowance under 26 USC 179 and the excess of accelerated depreciation as determined under 26 USC 167, and 26 USC 168 over straight line depreciation allowable under 26 USC 167, and subtracting public assistance and child and spousal support received from previous marriages.

(14) "Imputed income for child support" means the amount of income ascribed to assets, which are underproductive or to which income has been diverted to avoid paying child support or from which income is necessary to maintain the child(ren) at the economic level they would enjoy if they were living with their parents, which exceeds the actual earnings of the assets.

(15) "Marital child" means a child determined to be a marital child under Wis. Stats., s. 767.60, Stats.

(16) "Parent" means the natural or adopted parent of the child.

(17) "Payee" means the parent who is the recipient of child support as a result of a court order.

(18) "Payer" means the parent who incurs a child support obligation as a result of a court order.

(19) "Primary custodian" means the parent having physical custody of the child more than 182 days a year or the parent designated by the court as primary custodian when the parents share the child-caring responsibility equally.

(20) "Self-employed payer" means a payer determined by the court to be self-employed for the purpose of determining child support.

(21) "Serial family payer" means a payer with an existing child support obligation who incurs an additional child support obligation in a subsequent family or as a result of a paternity judgment.

(22) "Shared-time payer" means a payer who is not the primary custodian but who provides overnight child care beyond the threshold and assumes all variable child care costs in proportion to the number of days he or she cares for the child under the shared-time arrangement.

(23) "Split custody payer" means a payer who has 2 or more children and who has physical custody of one or more but not all of the children.

(24) "Standard" or "percentage standard" means the percentage of income standard under s. HSS 80.03(1) which, multiplied by the payer's base or adjusted base, results in the payer's child support obligation.

Note: The standard is based on national studies of the percentage of income used to support a child or children with adjustment downward of those percentages to reflect costs incurred by the payer for visitation and to maintain health insurance for the child or children.

(25) "Threshold" means 30% of a year or 109.5 out of every 365 days.

Note: The threshold was derived by taking 30% of a 365 day year.

(26) "Total Annual Income for Child Support" means gross income adjusted for child support plus imputed income for child support.

(27) "Unemployed payer" means a payer not employed at the time child support is ordered, but who may be employed in the future.

(28) "Variable costs" means costs that include payment for food, clothing, school, extracurricular activities and recreation.

(29) "Worksheet" means the department's percentage standard worksheet, printed as Appendix B to this chapter.

HSS 80.03 SUPPORT ORDERS (1)(intro.) DETERMINING CHILD SUPPORT USING THE PERCENTAGE STANDARD. The payer's base shall be determined by adding together the payer's gross income adjusted for child support and the payer's imputed income for child support and dividing by 12. This may be done by completing the worksheet in Appendix B, although use of the

worksheet for this purpose is not required. The percentage of the payer's base or adjusted base that constitutes the child support obligation shall be:

- (a) 17% for one child;
- (b) 25% for 2 children;
- (c) 29% for 3 children;
- (d) 31% for 4 children; and
- (e) 34% for 5 or more children.

Note: See Appendix A which indicates the amount of child support at various levels of income using the percentage standard.

(2) CALCULATION OF FAMILY SUPPORT. When the standard under sub. (1) is used to calculate support under s. 767.261, Stats., the amount determined shall be increased by the amount necessary to provide a net family support payment, after state and federal income taxes are paid, of at least the amount of a child support payment under the standard.

(3) EXPRESSION OF ORDERED SUPPORT. In temporary and final support orders, the ordered support may be expressed either as a percentage of the base or adjusted base, or as a fixed sum, as permitted under ss. 767.23(1), 767.25(1) and 767.51(4), Stats.

(4) DEPENDENCY EXEMPTION. The court may order the payee to waive the federal dependency exemption provided that the payee's execution of the exemption waiver is made contingent on the receipt of child support payments.

HSS 80.04 DETERMINING THE CHILD SUPPORT OBLIGATION IN SPECIAL CIRCUMSTANCES. Child support maybe determined under special circumstances as follows:

(1) DETERMINING THE CHILD SUPPORT OBLIGATION OF A SERIAL FAMILY PAYER. For a serial family payer the child support obligation may be determined as follows:

(a) Determine the payer's base in accordance with s. HSS 80.03(1) (intro.);

(b) Determine the payer's adjusted base by applying one of the following methods, as appropriate:

1. When the payer is subject to an existing support order, subtract the amount of the court-ordered support if it is being paid, from the base to get the adjusted base; or

2. When the payer has other children legally under his or her care who are not subject to a court order, multiply the appropriate percentage for the number of children legally under the payer's care by the base as



determined on the worksheet. Subtract this amount from the base to determine the adjusted base; and

(c) Multiply the appropriate percentage for the number of children subject to the new order by the adjusted base determined in either par. (b) 1 or 2 to determine the child support obligation.

Note #1: The following example shows how the child support obligation is determined for a serial family payer whose additional child support obligation has been incurred for a subsequent family:

Assumptions:

The payer's base is \$2,000;

The payer's existing monthly support order for 2 children is \$500; and

The payer is getting divorced from her second husband with whom she has one child.

Calculation:

Base		\$2,000
Existing court order	-	<u>500</u>
Adjusted base for determining child support		1,500
Percentage standard for 1 child	x	<u>.17</u>
Monthly child support order		\$ 255

Note #2: The following example shows how the child support obligation is determined for a serial family payer whose additional child support obligation has been incurred as a result of a paternity judgment.

Assumptions:

The payer's base is \$2,000;

The payer and his wife have 2 children of their own; and

The payer has been adjudicated the father of another child in a paternity judgment.

Calculation:

Base	\$2,000
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Standard for 2 children under the payer's care (25% x \$2,000)	-	<u>500</u>
Adjusted base		\$1,500
Standard for one child as a result of paternity judgment	x	<u>.17</u>
Monthly child support order		\$ 255

(2) DETERMINING THE CHILD SUPPORT OBLIGATION OF A SHARED-TIME PAYER.  
The child support obligation for a parent who the court determines is a shared-time payer may be calculated as follows:

(a) Determine the payer's base in accordance with s. HSS 80.03(1) (intro.);

(b) Multiply the appropriate percentage under s. HSS 80.03(1) by the payer's total annual income for child support to establish the payer's original annual level of child support;

(c) Divide the payer's original annual level of child support in par. b by 365 to determine the payer's original daily child support obligation.

(d) Determine the number of days a year the payer will care for the child overnight;

(e) Determine the number of days a year above the threshold and less than 183 that the payer will care for the child overnight;

(f) Multiply the numbers of days a year above the threshold the payer will care for the child overnight in subd. 5 by the payer's original daily child support level in subd. 3 to determine the amount by which the payer's annual support obligation is to be reduced.

(g) Subtract the amount by which the payer's annual support is to be reduced in subd. 6 from the payer's original annual level of child support as identified in subd. 2 to determine the payer's final annual child support obligation.

(h) Divide the amount determined in subd. 7 by 12 to determine the payer's monthly level of child support; and

(i) Express the shared time payer's monthly child support obligation either as a fixed sum or as a percentage of the payer's base.

Note: The following example shows how to calculate the amount of child support for a shared-time payer:

Assumptions:

The payer is divorced and has one child;

The payer assumes 40% of child-caring responsibility, or 146 days;

The payer's monthly gross income is \$3,000;

The payer has available assets.

Calculation:

The payer's total annual income for child support = \$36,000.

The payer's original annual child support obligation =  $17\% \times \$36,000 = \$6,120$ .

The payer's original daily child support obligation =  $\$6,120 \div 365 = \$16.77$ .

The payer provides overnight child care 146 days a year.

The payer provides overnight child care 36.5 days a year above the threshold ( $146 - 109.5 \text{ days} = 36.5 \text{ days}$ ).

The payer's child support obligation is reduced by \$611.38 ( $36.5 \times \$16.77$ ).

The annual child support obligation of the shared time payer is  $\$6,120 - \$611.38 = \$5,508.62$ .

The monthly child support obligation of the shared-time payer is  $\$5,508.60 \div 12 = \$459.05$ .

(3) DETERMINING THE CHILD SUPPORT OBLIGATION OF A SPLIT-CUSTODY PAYER. For a split-custody payer, the child support obligation may be determined as follows:

(a) Determine the payer's base in accordance with s. HSS 80.03(1)(intro.) for calculating the amount of child support.

(b) Multiply the payer's base established under par. (a) by the appropriate percentage under s. HSS 80.03(1) for the number of children in the payee's custody to determine the payer's child support obligation in dollars.

(c) Determine the payee's base in accordance with s. HSS 80.03(1)(intro.) for calculating the amount of child support.

(d) Multiply the payee's base established under par. (c) by the appropriate percentage under s. HSS 80.03(1) for the number of children in the payer's custody to determine the payee's child support obligation.

(e) Subtract the smaller child support obligation from the larger to determine the reduced amount of child support owed by the parent with the larger child support obligation.

Note: The following example shows how to calculate the amount of child support for a split-custody payer:

Assumptions:

The payer is divorced and has 3 children:

The payer has custody of one child;

The payer's monthly gross income is \$3,000;

The payee has custody of 2 children; and

The payee's monthly gross income is \$1,500.

Calculation:

The payer's base	\$3,000
The payer's original child support obligation (25% x \$3,000)	750
The payee's base	1,500
The payee's original child support obligation (17% x \$1500)	<u>255</u>
The payer owes the payee (750 - 255)	\$ 495

HSS 80.05 DETERMINING IMPUTED INCOME FOR CHILD SUPPORT. For a payer with assets, a reasonable earning potential may be attributed to the assets as follows:

(1) Determine the payer's gross income.

(2) If the court finds that the payor has underproductive assets or has diverted income into assets to avoid paying child support or that

income from the payer's assets is necessary to maintain the child or children at the economic level they would enjoy if they and their parents were living together, identify those assets and then impute income to them by multiplying the total net value of all assets by the current 6-month treasury bill rate or any other rate that the court determines is reasonable.

(3) Subtract the actual earnings of the assets from the imputed income from assets to determine the imputed income for child support.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and  
Social Services

Dated:

By:

\_\_\_\_\_  
Timothy F. Cullen  
Secretary

Seal:

# 1987 Wisconsin Act 27

(Vetted in Part)

87 Senate Bill 100 Date of enactment: July 31, 1987  
Date of publication\*: July 31, 1987

- I. Wis. Stats. ch. 45 was amended to require denial of certain loans to veterans that have a support arrearage, when the amount has been certified to the Department of Veterans Affairs pursuant to s. 46.255(7), Stats.

SECTION 696s. 45.351 (2) (c) of the statutes is created to read:

45.351 (2) (c) No person may receive a loan under this subsection if the department receives a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

SECTION 698am. 45.74 (6) of the statutes is created to read:

45.74 (6) DELINQUENT SUPPORT PAYMENTS. It has received a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

SECTION 700r. 45.80 (2) (e) of the statutes is created to read:

45.80 (2) (e) *Delinquent support payments.* The department has not received a certification under s. 46.255 (7) that the person is delinquent in child support or maintenance payments.

- II. The child support enforcement program statutes now contain sections expressly allowing disclosure of any arrearage to consumer reporting agencies; providing for the certification of support arrears to the Department of Administration and to the Departments of Military Affairs, Veteran Affairs, National Resources and Housing & Economic Development, and the University of Wisconsin System Educational Communication Board and the Crime Victim Program. Also, sections have been added that more narrowly delineate the Child Support Assurance Supplement Pilot Program.

SECTION 790. 46.25 (9) (d) of the statutes is repealed.

SECTION 790e. 46.25 (11) of the statutes is created to read:

46.25 (11) The department may, upon request, disclose to a consumer reporting agency, as defined under 45 CFR 303.105 (a), the amount of overdue child support owed by a parent. The department shall notify the parent prior to disclosing the information to the consumer reporting agency and inform the parent of the methods available for contesting the accuracy of the information.

SECTION 790m. 46.255 (4m) of the statutes is created to read:

46.255 (4m) (a) In this subsection, "vendor" means a person providing goods or services to this state under subch. IV or V of ch. 16 or under ch. 84 or any medical assistance provider, as defined under s. 49.43 (10).

(b) The department may provide a certification under sub. (1) to the department of administration. Upon receipt of the certification, the department of administration shall determine whether the obligor is a vendor or is receiving any other payments from this state, except for wages, retirement benefits or assistance under s. 45.28, 45.351 (1) or 45.352, 1971 stats., this chapter or ch. 49 or 108. If the department of administration determines that the obligor is a vendor or is receiving payments from this state, except for wages retirement benefits or assistance under s. 45.28, 45.351 (1) or 45.352, 1971 stats., this chapter or ch. 49 or 108, it shall begin to withhold the amount certified from those payments and shall notify the obligor that the state intends to reduce any payments due the obligor by the amount the obligor is delinquent under the support or maintenance order and that the department intends to forward that amount to the clerk of the court rendering the order. The notice shall provide that within 20 days after receipt of the notice the obligor may request a hearing before the circuit court rendering the support or maintenance order. An obligor may, within 20 days after receiving notice, request a hearing under this paragraph. Within 10 days after receiving a request for hearing under this paragraph, the court shall set the matter for hearing. The family court commissioner may conduct the hearing. Pending further order by the court or family court commissioner, the clerk of court may not disburse the payments withheld from the obligor. The sole issues at the hearing are whether the obligor owes the amount certified and, if not, whether the money withheld shall be paid to the obligor or held for future support or maintenance.

(c) Except as provided by order of the court after hearing under par. (b), the department of administration shall continue withholding until the amount certified is recovered in full. The department of administration shall transfer the amounts withheld under this paragraph to the department of health and social services for distribution to the appropriate clerk of court.

(d) A setoff under s. 73.12 (3) has priority over withholding under this subsection.

SECTION 790s. 46.255 (7) of the statutes is created to read:

46.255 (7) The department may provide a certification under sub. (1) to a state agency or authority under s. 21.49 (2) (e), 36.11 (6) (b), 36.25 (14), 36.34 (1), 39.30 (2) (e), 39.38 (2), 39.435 (6), 39.44 (4), 39.47 (2m), 45.351 ~~XXXXXX~~ (2) (c), 45.396 (6), 45.74 (6), 45.80 (2) (e), 144.245 (5m) (b), 144.25 (8) (L), 234.04 (2), 234.49 (1) (c), 234.59 (3) (c), 234.65 (3) (f), 234.90 (3) (d) or 949.08 (2) (g).

SECTION 790L. 46.257 (2) of the statutes is amended to read:

46.257 (2) The department ~~may~~ shall, if the necessary federal approvals are received, initiate a child support supplement program under which a custodian of a minor child who receives inadequate child support from his or her parent or parents may obtain a supplemental payment from public funds on behalf of the minor child. ~~If the necessary federal approvals are received, the department shall initiate a child support supplement program under which a custodian of a minor child who receives inadequate child support from his or her parent or parents may obtain a supplemental payment from public funds on behalf of the minor child.~~ Vetoed in Part

SECTION 790u. 46.257 (3) of the statutes is amended to read:

46.257 (3) Under this program, the department ~~may~~ shall enter into agreements with counties under which the state or the county pays a child support supplement payment to a participating custodian of a minor child in that county who does not receive adequate child support, as determined according to the plan established by the department under sub. (6) (c). The department may enter into agreements with no more than 2 counties except with the review and approval of the governor.

SECTION 791. 46.257 (3m) of the statutes is amended to read:

46.257 (3m) If the department enters into agreements with counties under sub. (3), at least one of the counties may be a county which participates in the work experience and job training ~~and~~ program under s. 49.50 (7j).

SECTION 791r. 46.257 (6m) of the statutes is created to read:

46.257 (6m) A designee under s. 59.07 (97) may not administer the program under this section in a county unless the designee is the county department under s. 46.215, 46.22 or 46.23.

III. This section has been amended to require the use of the Child Support Data System (CSDS), when available, to keep the child support receipt and disbursement records.

SECTION 1197. 59.39 (9m) of the statutes is amended to read:

59.39 (9m) Keep a record of all payments and arrearages in payments ordered by the court under ss. 767.25 to 767.265, 767.29 (1), 767.51 and 767.65. ~~The department of health and social services operates a data system relating to those payments and arrearages. The clerk may, without charge, obtain a copy of the record of payments and arrearages for the department. The department shall use that system to keep this record.~~

IV. Wis. Stats. ch. 767 was amended to: expand long-arm jurisdiction; require that support or paternity actions be brought for publicly-dependant child; establish criteria for such act.; and codify case law with regard to requiring noncustodial parents to seek work; allow use of hearing examiners in Milwaukee County; extend liability for past support to the birth of a child; clarify that modification of support applies to paternity actions; and prohibit retroactive modification of support.

(Where effective dates are other than August 1, 1987, that date is noted.)

SECTION 2133m. 767.01 (2) of the statutes is repealed and recreated to read:

767.01 (2) In an action to establish paternity or to establish or enforce a child support obligation, in regard to a child who is the subject of the action, a person is subject to the jurisdiction of the courts of this state if any of the following circumstances exist:

(a) The person has the necessary minimum contact with this state for the exercise of jurisdiction under s. 801.05 or 801.07 (5).

(b) The person engaged in sexual intercourse with the child's mother in this state during the child's period of conception or the affected child was conceived in this state.

(c) The affected child resides in this state.

(d) The person resides or has resided with the child in this state. (Effective 10/1/87)





- V. There were extensive modifications to the paternity statutes. Several of the changes will not be effective until 10/1/87 and others not effective until 7/1/88. Those later effective dates are noted following the section affected. These provisions will require the state to commence a paternity action within six months of the birth of any nonmarital child; clarify the definition of alleged father; revise the summons format and provide for a waiver of first appearance; permit the court to refuse to order blood tests in cases when the mother was married to a man other than the man claiming to be the father at the time of the birth of the child; clarify that a petition may name more than one respondent; revise the default judgment provisions; create a presumption of parentage when blood tests produce a 99% or higher probability; prevent testimony regarding excluded males; eliminate automatic jury trials; and provide for six jurors.

SECTION 2135k. 767.45 (1) (h) of the statutes is created to read:

767.45 (1) (h) This state as provided under sub (6m). (Effective 7/1/88)

SECTION 2135m. 767.45 (5) of the statutes is renumbered 767.45 (5) (b). (Effective 10/1/87)

SECTION 2135n. 767.45 (5) (a) of the statutes is created to read:

767.45 (5) (a) In this subsection, "any alleged father" includes any male who has engaged in sexual intercourse with the child's mother during a possible time of conception of the child. (Effective 10/1/87)

SECTION 2135p. 767.45 (6m) of the statutes is created to read:

767.45 (6m) The attorney designated under sub. (6) (a) shall commence an action under this section on behalf of the state within 6 months after the filing with the register of deeds under s. 69.07 of a birth certificate for a child who is a resident of the county if no father is named on the birth certificate or if the mother is not married and paternity has not been adjudicated, except in situations under s. 69.14 (1) (g) and (h) and as provided by the department of health and social services by rule. ~~The attorney designated under sub. (6) (a) shall commence an action under this section on behalf of the state within 6 months after the filing with the register of deeds under s. 69.07 of a birth certificate for a child who is a resident of the county if no father is named on the birth certificate or if the mother is not married and paternity has not been adjudicated, except in situations under s. 69.14 (1) (g) and (h) and as provided by the department of health and social services by rule.~~ (Effective 7/1/88)

SECTION 2135r. 767.45 (7) of the statutes is amended to read:

767.45 (7) The clerk of court shall provide without charge, to each person bringing an action under this section, except to the state under sub (1) (g) or (6m), a document setting forth the percentage standard established by the department of health and social services under s. 46.25 (9) (a) and listing the factors which a court may consider under s. 767.51 (5).

(Effective 7/1/88)

SECTION 2136. 767.455 (5) of the statutes is amended to read: (Effective 10/1/87)

767.455 (5) Form. The summons shall be in substantially the following form:

STATE OF WISCONSIN,  
CIRCUIT COURT  
.... COUNTY

In re the Paternity of A.B.

**Summons**

THE STATE OF WISCONSIN.

To ~~serve~~ the respondent:

You have been sued. .... claims that you are the father of the child. .... born on .... (date), in .... (city) (county) (state). You must appear to answer this claim of paternity. Your court appearance is:

Date: .....

Time: .....

Room: .....

Judge: .....

Address: .....

If you do not appear, the court will ~~appoint an attorney~~ appoint an attorney to find you and bring you to court enter a default judgment finding you to be the father. A default judgment will take effect 10 days after it is served on or mailed to you, unless within those 10 days you present to the court or a family court commissioner evidence of good cause for failure to appear. If you plan to be represented by an attorney, you should contact the attorney prior to the court appearance listed above. If you are unable to afford an attorney, the court will appoint one for you. ~~If you appear, you may, at any time, file a petition for a judgment by the court.~~ Appearance is not required if you complete the attached waiver of first appearance statement and send it to the court at least 10 days prior to the date of your scheduled appearance in this summons.

Dated: .... 19 ...

... CC  
... Clerk of Circuit Court  
... Petitioner's Attorney

SECTION 2137r. 767.48 (1) of the statutes is renumbered 767.48 (1) (a) and amended to read:

767.48 (1) (a) The court or family court commissioner may, and upon request of a party shall, require the child, mother, ~~alleged father~~ any male for whom there is probable cause to believe that he had sexual intercourse with the mother during a possible time of the child's conception, or any male witness who testifies or will testify about his sexual relations with the mother at a possible time of conception to submit to blood tests. Probable cause of sexual intercourse during a possible time of conception may be established by a sufficient petition or affidavit of the child's mother filed with the court, or after an examination under oath of a complainant or witness when the court or family court commissioner determines such an examination is necessary.

(b) The blood tests shall be performed by an expert qualified as an examiner of genetic markers present on blood cells and components, appointed by the court. A report completed and certified by the court-appointed expert stating blood test results and the statistical probability of the alleged father's paternity based upon the blood tests is admissible as evidence without expert testimony and may be entered into the record at the trial or pretrial hearing if, at least 10 days before the trial or pretrial hearing, the party offering the report files it with the court and notifies all other parties of that filing. (Effective 10/1/87)

SECTION 2137s. 767.48 (1m) of the statutes is created to read:

767.48 (1m) Under sub. (1), if the blood tests show that the alleged father is not excluded and that the statistical probability of the alleged father's parentage is 99.0% or higher, the alleged father shall be rebuttably presumed to be the child's parent. (Eff. 10/1/87)

SECTION 2137u. 767.48 (4) of the statutes is amended to read:

767.48 (4) Whenever the results of the blood tests exclude the alleged father as the father of the child, this evidence shall be conclusive evidence of nonpaternity and the court shall dismiss the action. Whenever the results of the tests exclude any male witness from possible paternity, the tests shall be conclusive evidence of nonpaternity of the male witness. Testimony relating to sexual intercourse or possible sexual intercourse of the mother with any person excluded as a possible father as a result of a blood test is inadmissible as evidence. If any party refuses to submit to the blood test, this fact shall be disclosed to the fact finder. This refusal is a contempt of the court for failure to produce evidence under s. 767.47 (5). If the action was brought by the child's mother but she refuses to submit herself or the child to blood tests, the action shall be dismissed. (Effective 10/1/87)

SECTION 2137x. 767.50 of the statutes is renumbered 767.50 (1) and amended to read:

767.50 (1) The trial shall be divided into 2 parts. The first part shall deal with the determination of paternity ~~and the issue of nonpaternity.~~ The 2nd part shall deal with child support, custody, visitation, and related issues. At the first part of the trial, the main issue shall be whether the alleged or presumed father is or is not the father of the mother's child, but if the child was born to the mother while she was the lawful wife of a specified man there shall first be determined, as provided in s. 891.39, the prior issue of whether the husband was not the father of the child. ~~The first part of the trial shall be by jury unless the parties agree in writing that the trial shall be by court.~~ The first part of the trial shall be by jury unless the parties agree in writing that the trial shall be by court, and in compliance with the approval of the court, and in compliance only if the defendant verbally requests a jury trial either at the initial appearance or pretrial hearing or requests a jury trial in writing prior to the pretrial hearing. The court may direct, and if requested by either party, before the introduction of any testimony in the party's behalf, shall direct the jury in cases where there is a jury, to find a special verdict as to any of the issues specified in this section except that the court shall make all the findings enumerated in s. 767.51 (2) to (5). If the mother is dead, becomes insane, cannot be found within the jurisdiction or fails to commence or pursue the action, the proceeding does not abate if any of the persons under s. 767.45 (1) makes a motion to continue. The testimony of the mother taken at the pretrial hearing may in any such case be read in evidence if it is competent, relevant and material. The issues of child support, custody and visitation and related issues shall be determined by the court either immediately after the first part of the trial or at a later hearing before the court or a family court commissioner. (Effective 10/1/87)

SECTION 2137w. 767.50 (2) of the statutes is created to read:

767.50 (2) If a jury is requested under sub. (1), the jury shall consist of 6 persons. No verdict is valid or received unless agreed to by at least 5 of the jurors. (Effective 10/1/87)

## VI. NONSTATUTORY PROVISIONS

(9c) **CHILD SUPPORT DATA SYSTEM.** The department of health and social services shall consider the feasibility of modifying the data system relating to child support payments and arrearages, which counties are required to use under section 59.39 (9m) of the statutes, as affected by this act, so that the system is compatible with data systems operated by counties.

(13m) **RULES ON PATERNITY ACTIONS BY COUNTIES.** The department of health and social services shall submit proposed rules under section 767.45 (6m) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 8th month beginning after the effective date of this subsection.

(14m) **PATERNITY BACKLOG.** The department of health and social services shall develop a plan for reducing the paternity establishment backlog in a county with a population of 500,000 or more. The department shall develop the plan after consultations with the county and shall submit the plan to the joint committee on finance on or before January 1, 1988. The plan may not be implemented, and no funds under section 20.435 (4) (c) of the statutes may be released, until the joint committee on finance approves the plan. The plan may not be in effect after June 30, 1989. Under the plan, the department may, with the approval of the joint committee on finance, establish project positions, pay staff from other counties willing to participate in the effort to reduce the backlog and use funds to pay incentives to reduce the backlog.

(15m) **DELINQUENT CHILD SUPPORT WITHHOLDING REPORT.** The department of health and social services shall submit a report to the joint committee on finance on or before January 1, 1989, concerning the feasibility of withholding delinquent child support and maintenance under section 46.255 (4m) of the statutes, as created by this act, and its progress in implementing that provision.

(2m) **MILWAUKEE COUNTY CHILD SUPPORT AND PATERNITY ESTABLISHMENT AUDIT.** The legislative audit bureau shall conduct a program audit of the agency which administers the child and spousal support and establishment of paternity programs in Milwaukee county under the contract under section 59.07 (97) of the statutes and shall report its findings to the presiding officer of each house of the legislature no later than January 1, 1989.

## VII. APPLICABILITY

(10) **CIRCUIT COURTS.**

(bm) **Paternity actions.** The treatment of sections 767.01 (2), 767.25 (5), 767.45 (5), 767.455 (5), (5g) and (5r), 767.457, 767.458 (2), 767.46 (2) (intro.), 767.465 (2) and (3), 767.48 (1), (1m) and (4) and 767.50 of the statutes and the creation of sections 767.45 (5) (a), 767.457, ~~767.458 (2)~~ 767.465 (3) (c), 767.50 (2), and 767.51 (4) of the statutes first apply to paternity actions commenced on the first day of the 3rd month beginning after publication.

Vetoed  
in Part

(24) **HEALTH AND SOCIAL SERVICES.**

(em) **Paternity actions on behalf of the state.** The treatment of section 767.45 (6m) of the statutes first applies to children whose birth certificates are filed on the first day of the 12th month beginning after publication.

## VIII. EFFECTIVE DATES

(10) **CIRCUIT COURTS.**

(am) **Paternity actions.** The treatment of sections 767.01 (2), 767.25 (5), 767.45 (5), 767.455 (5), (5g) and (5r), 767.457, 767.458 (2), 767.46 (2) (intro.), 767.465 (2) and (3), 767.48 (1), (1m) and (4) and 767.50 of the statutes and the creation of sections 767.45 (5) (a), 767.457, ~~767.458 (2)~~ 767.465 (3) (c), 767.50 (2) and 767.51 (4) of the statutes take effect on the first day of the 3rd month beginning after publication.

Vetoed  
in Part

(24) **HEALTH AND SOCIAL SERVICES.**

(im) **Paternity actions on behalf of the state.** The treatment of sections 767.45 (1) (h), (6m) and (7) and 814.61 (1) (a) of the statutes takes effect on the first day of the 12th month beginning after publication.

SECTION 2136c. 767.455 (5g) of the statutes is created to read:

767.455 (5g) NOTICE. The notice to respondent shall be attached to the summons. The notice shall be in boldface type and substantially the following form.

#### NOTICE TO RESPONDENT

1. You have been named in a petition alleging paternity. A judgment of paternity would legally designate the child as your child, grant parental rights to you, create the right

of inheritance for the child, obligate you to pay child support until the child reaches the age of 18, or the age 19 if the child is enrolled full-time in high school or its equivalent, and make your failure to pay child support punishable by imprisonment as a contempt of court or as a criminal violation.

2. You have the right to be represented by an attorney. If you are unable to afford an attorney, the court will appoint one for you. In order to determine whether you are entitled to have an attorney appointed for you, you may call the following telephone number ....

3. You may request blood tests which will indicate the probability that you are or are not the father of the child. The court or family court commissioner will order blood tests on request by you, the state or any other party. Any person who refuses to take court-ordered blood tests may be punished for contempt of court.

4. The petitioner has the burden of proving by clear and satisfactory preponderance of the evidence that you are the father. However, if blood tests show that you are not excluded as the father and that the statistical probability of your being the father is 99.0% or higher, you are rebuttably presumed to be the father.

5. The following defenses are available to you:

(a) That you were sterile or impotent at the time of conception.

(b) That you did not have sexual intercourse with the mother of the child during the conceptive period as provided in s. 891.395.

(c) That another man did have sexual intercourse with the mother of the child during the conceptive period.

6. You have the right to request a jury trial.

7. If you fail to appear at any stage of the proceeding, including a scheduled blood test, the court will enter a default judgment finding you to be the father. A default judgment will take effect 10 days after it is served on or mailed to you at your address on file with the court, unless within those 10 days you present to the court or a family court commissioner evidence of good cause for your failure to appear or your failure

to have undergone a blood test. You need not appear at the time and place specified in the summons if you complete the attached waiver of first appearance statement and deliver it to the court by the date specified in the waiver of first appearance statement.

8. You must keep the clerk of court informed of your current address at all times. (EFF. 10/1/87)

SECTION 2136m. 767.455 (5r) of the statutes is created to read:

767.455 (5r) WAIVER OF FIRST APPEARANCE. The waiver of first appearance statement shall be attached to the summons. The waiver of first appearance statement shall be in boldface type and substantially the following form.

#### WAIVER OF FIRST APPEARANCE

1. I understand that by signing this waiver and agreeing to its terms I am not required to appear at the time and place specified in the summons. If I do not sign this statement, I am required to appear at the time and place specified in the summons.

2. I understand that I will be notified by the court of all future stages in the proceeding and agree to appear at those stages. If I fail to appear at any stage, including a scheduled blood test, the court will enter a default judgment finding me to be the father. A default judgment will take effect 10 days after it is served on or mailed to me, unless within those 10 days I present to the court or a family court commissioner evidence of good cause for my failure to appear or my failure to have undergone a blood test.

3. I enter the following plea (check only one):

.... I agree that I am the child's father.

.... I deny that I am the child's father.

.... I agree that I am the child's father, subject to confirmation by a blood test.

If I enter a plea agreeing that I am the child's father, a judgment of paternity will be entered against me. If I enter a plea denying that I am the child's father or a plea agreeing that I am the child's father, subject to a blood test, I agree to undergo a blood test.

4. I have read the summons and the notice or have had them read to me.

5. This waiver of first appearance statement is valid only if it is delivered to the court on or before ....

6. I will keep the clerk of court informed of my address at all times. The following is my current address:

.....  
Street address and apartment number

.....  
City State Zip Code

.....  
Date

.....  
Signature of Respondent

SECTION 2136p. 767.455 (5w) of the statutes is created to read:

767.455 (5w) EXCEPTION. Subsections (5) to (5r) do not apply in an action brought by a man alleging himself to be the father of the child.

SECTION 2136t. 767.457 of the statutes is renumbered 767.458 (1), and 767.458 (1) (c) and (d), as renumbered, are amended to read:

767.458 (1) (c) ~~The~~ Except as provided under sub (1m), the respondent may request the administration of blood tests which either demonstrate that he is not the father of the child or which demonstrate the probability that he is or is not the father of the child.

(d) ~~The~~ Except as provided under sub (1m), the court or family court commissioner will order blood tests upon the request of any party; and

SECTION 2137b. 767.457 of the statutes is created to read:

767.457 Time of first appearance. (1) The first appearance under s. 767.458 may not be held any sooner than 30 days after service or receipt of the summons and petition.

(2) A first appearance of a respondent is not required if, at least 10 days prior to the scheduled appearance, the respondent waives his first appearance by filing a completed waiver of first appearance statement under s. 767.455 (5r). (EFF. 10/1/87)

SECTION 2137d. 767.458 (1m) of the statutes is created to read:

767.458 (1m) ~~At the first appearance~~ in an action to establish the paternity of a child who was born to a woman while she was married, where a man other than the woman's husband alleges that he, not the husband, is the child's father, a party may allege that a judicial determination that a man other than the husband is the father is not in the best interest of the child. If the judge or court commissioner determines that a judicial determination of whether a man other than the husband is the father is not in the best interest of the child, no blood tests may be ordered and the action shall be dismissed.

SECTION 2137e. 767.458 (2) of the statutes is created to read:

767.458 (2) At the first appearance, if it appears from a sufficient petition or affidavit of the child's mother that there is probable cause to believe that any of the males named has had sexual intercourse with the mother during a possible time of the child's conception, the court or family court commissioner shall order any of the named persons to submit to blood tests. The tests shall be conducted in accordance with s. 767.45. (Effective 10/1/87)

SECTION 2137f. 767.46 (2) of the statutes is amended to read:

767.46 (2) (intro.) On the basis of the information produced at the pretrial hearing, the judge or family court commissioner conducting the hearing shall evaluate the probability of determining the existence or nonexistence of paternity in a trial ~~on the basis of the information produced at the pretrial hearing~~ and shall so advise the parties. On the basis of the evaluation, the judge or family court commissioner may make an appropriate recommendation for settlement to the parties. This recommendation may include any of the following: (EFF. 10/1/87)

SECTION 2137L. 767.465 (2) of the statutes is repealed and recreated to read:

767.465 (2) WHEN RESPONDENT FAILS TO APPEAR. (a) If a respondent is the alleged father and fails to appear at the first appearance, unless the first appearance is not required under s. 767.457 (2), scheduled blood test, pretrial hearing or trial, the court or family court commissioner shall enter an order adjudicating the respondent to be the father and appropriate orders for support and custody. The orders shall be either personally served on the respondent or mailed by registered or certified mail, with return receipt signed by the respondent. The orders shall take effect 10 days after service or receipt unless, within that time, the respondent presents to the court or court commissioner evidence of good cause for failure to appear or failure to have undergone a blood test.

(b) A default judgment may not be entered under par. (a) if there is more than one person alleged in the petition to be the father, unless only one of those persons fails to appear and all of the other male respondents have been excluded as the father. (EFF. 10/1/87)

SECTION 2137o. 767.465 (3) of the statutes is renumbered 767.465 (3) (intro.) and amended to read:

767.465 (3) MOTION TO REOPEN. (intro.) A default judgment rendered under this section which adjudicates a person to be the father of a child may be reopened if:

(a) At any time upon motion or petition for good cause shown ~~as shown~~.

(b) Upon a motion under s. 806.07. (EFF. 10/1/87)

SECTION 2137p. 767.465 (3) (c) of the statutes is created to read:

767.465 (3) (c) Within one year after the judgment upon motion or petition, ~~the court or family court commissioner shall order any of the named persons to submit to blood tests. The tests shall be conducted in accordance with s. 767.45.~~ (Effective 10/1/87)

## Alternative Funding Sources for Selected Options of State Assumption of County Welfare Programs

Property taxation is not the only source of state funding that could be used to finance state assumption of county welfare programs. Other revenue sources that are provided as examples: personal income tax, corporate income tax, oil severance tax, insurance premium tax, the metal mines tax and a sales tax. This summary will compare revenue from each of these sources to three options for state assumption of county welfare programs.

The three options for state assumption of county welfare programs consider only statewide assumption. Regional funding options were withdrawn due to the wide disparity in costs between regions. Option 1 was designed by members of the Advisory Council at its April 21 meeting. Options 2 and 3 are the statewide assumption options included in the report prepared by the Office of Budget and Program Planning and presented to the Council at the April 21 meeting. A brief synopsis of each follows.

Option 1: Limited assumption and benefits set to meet standards of local need. The state would assume only county general assistance and county medical assistance. Payment levels would be determined by the county but eligibility standards would be established by the state. Payment levels would be based on need and not on a standard payment matrix such as that in place for the 12 counties that are now state assumed. The newly assumed programs would not be responsible to fund the approximately \$6 million shortfall in property tax revenues from the 12 state assumed counties compared to actual FY87 poor fund expenditures. (See Table 9, page 16 of the OBPP report "Estimated Costs of State Assumption of County Poor Fund Services" presented at the April 21 Council meeting.)

The cost of option 1 is between current FY87 expenditure levels and the estimate given in this paper. It is not possible to know what payment levels would be adopted by counties under this option. It is assumed that there may be some increase in ga and state medical caseloads if eligibility criteria were state established, but that impact cannot be estimated either. The projected cost of option 1 uses the same payment levels and eligibility criteria for all counties as those in place in the 12 state-assumed counties. The estimate is representative of the maximum estimated cost for option 1 given current caseloads for ga.

Option 2: Limited assumption and eligibility and benefit payments in accordance with current law governing programs in state-assumed counties. The state would assume only county general assistance and county medical assistance. The eligibility and payment standards in statute for the existing 12 state-assumed counties would be extended to the other 44 nonassumed counties. The cost of this option would include funding the \$6 million difference between FY87 costs and revenues in the existing 12 state-assumed counties.

Option 3: Full state assumption of all county poor fund costs. The state would assume all county poor fund services. The cost of this option would include the \$6 million difference between FY87 costs and revenues in the 12 state-assumed counties.

Table 1 shows the costs of the three assumption options and the percentage increase for each tax that would be necessary to fund the option. Costs and revenues shown are in FY87 dollars. The costs and revenues are estimated, not actual collections or expenditures.

Table 1

ALTERNATIVE FUNDING SOURCES FOR SELECTED OPTIONS FOR STATE ASSUMPTION  
OF COUNTY WELFARE PROGRAMS IN FY87 COSTS

Tax Source	: Actual Total : :Collections FY87:	: Option 1 :	: Option 2 :	: Option 3 :
Estimated Total Cost	:	:\$10,818,026	:\$16,938,303	:\$26,747,954
Statewide Levy (in mills)	: \$2,000,744 : : per mill :	: 5.407 :	: 8.466 :	: 13.369 :
Personal Income Tax	: 194,676,947 :	: 5.56%:	: 8.70%:	: 13.74%:
Corporate Income Tax	: 34,566,361 :	: 31.30%:	: 49.00%:	: 77.38%:
Insurance Premium Tax	: 23,910,034 :	: 45.24%:	: 70.84%:	: 111.87%:
Oil Severance Tax	: 16,143,617 :	: 67.01%:	: 104.92%:	: 165.69%:
Metal Mines Tax	: 1,756,121 :	: 616.02%:	: 964.53%:	: 1523.13%:
Sales Tax**	: 191,200,000 :	: .22%:	: .35%:	: .56%:

\*\*NOTE: Estimates of revenue from a sales tax are taken from the fiscal note for HB377. Total collections are based on a 4 percent sales tax with such exemptions as food, medicine, services, utilities and components used in manufacturing a product.

The taxes listed in Table 1 are illustrative of some of the major revenue sources to the state and the amount of increase that would be necessary in each of those taxes to fund each assumption option. The total FY87 collections for each tax are shown as well.

Table 2 shows all the components of general fund revenue. Some of the same taxes are included in Table 1. However, calculations may be made for the necessary increase in each revenue source in order to fund any of the assumption options.

## REVENUE ESTIMATES

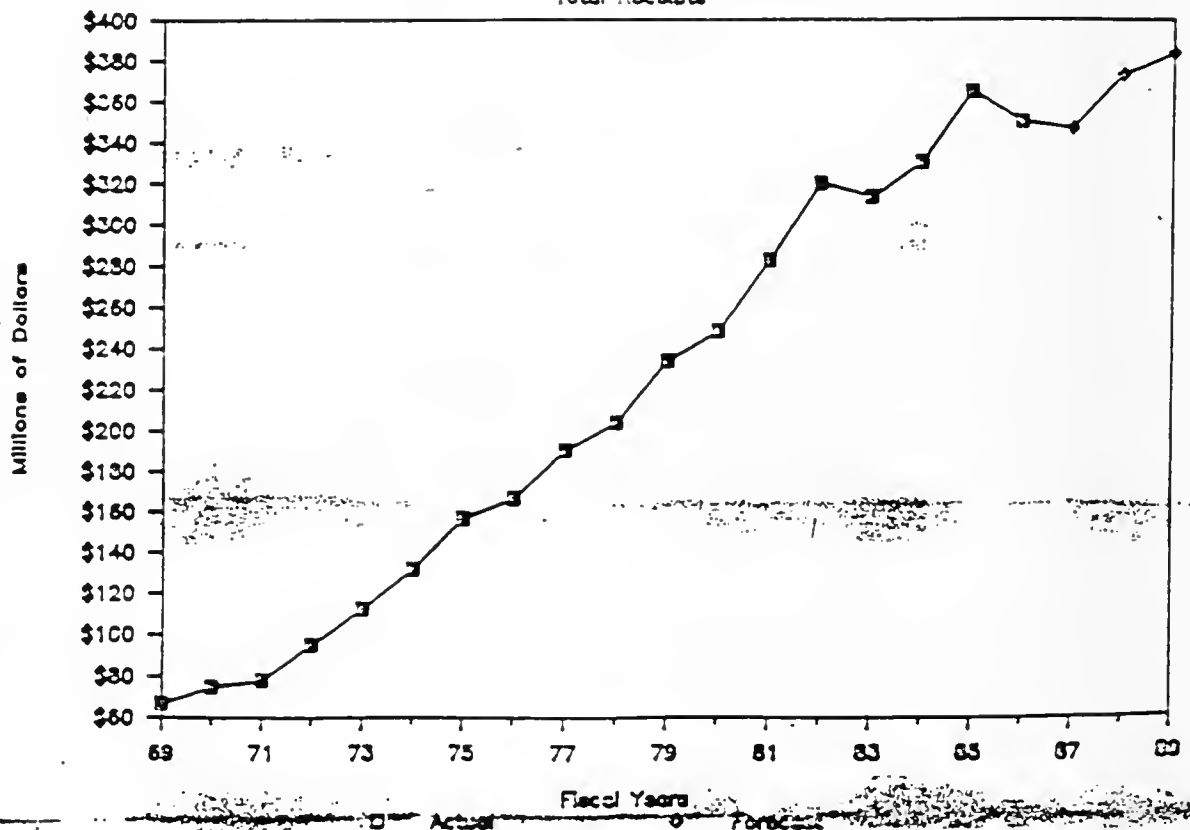
S-35

General Fund Revenue Estimates  
(In Millions)

Source of Revenue	Actual FY 1986	Estimated FY 1987	Estimated FY 1988	Estimated FY 1989
Individual Income Tax	\$110.218323	\$123.182000	\$131.214000	\$140.911000
Corporation License Tax	33.884815	20.683000	26.981000	29.638000
Coal Severance Tax	20.001598	17.291000	10.130000	8.690000
Oil Severance Tax	23.152504	10.938000	17.481000	18.591000
Interest on Investments	13.285291	12.385000	14.607000	16.793000
Long-Range Bond Excess	35.487786	34.571000	37.183000	38.601000
Coal Trust Fund Interest	32.443208	39.868000	36.644000	39.685000
Insurance Premiums Tax	16.780399	18.019000	31.782000	20.860000
Public Institution Reimb.	14.166104	14.822000	16.240000	16.394000
Liquor Profits	4.500000	5.000000	5.000000	3.185000
Liquor Excise Tax	5.836884	5.670000	5.602000	5.535000
Inheritance Tax	8.364764	8.645000	7.211000	7.450000
Metal Mines Tax	0.989852	1.093000	1.975000	2.762000
Electrical Energy Tax	2.530403	2.992000	2.914000	3.256000
Drivers' License Fees	0.796349	0.804000	0.799000	0.809000
Telephone License Tax	3.243935	3.530000	3.360000	3.419000
Beer License Tax	1.287765	1.289000	1.287000	1.285000
Natural Gas Severance Tax	2.890666	2.421000	1.574000	1.516000
Freight Line Tax	1.195066	1.212000	1.166000	1.186000
Wine Tax	0.946287	0.979000	1.027000	1.055000
Other Revenue Sources	17.539483	20.799000	19.950000	21.305000
GRAND TOTAL	\$349.541482	\$346.193000	\$372.634000	\$382.426000

## General Fund Revenue

Total Receipts





COUNTY	POPULATION	FY87 ASSESSED VALUATION	FY88 ASSESSED VALUATION
BEAVERHEAD	8,500	\$14,738,196	\$14,939,271
BIG HORN	11,400	123,803,866	113,948,988
BLAINE	6,900	41,755,175	33,111,206
BROADWATER	3,300	10,707,124	11,326,294
CARBON	3,300	28,879,840	24,039,773
CARTER	1,700	5,675,781	5,386,277
CASCADE	* 80,100	91,019,453	91,760,643
CHOUTEAU	6,100	28,722,388	27,907,344
CUSTER	13,300	16,300,054	16,998,350
DANIELS	2,800	7,705,750	7,569,147
DAWSON	12,700	27,124,110	23,555,552
DEER LODGE	* 11,600	9,148,804	8,880,817
FALLON	3,800	129,066,979	64,605,708
FERGUS	13,000	20,811,215	20,752,290
FLATHEAD	* 52,300	91,928,116	87,994,231
GALLATIN	45,300	65,411,202	66,319,801
GARFIELD	1,700	9,501,898	7,038,638
GLACIER	11,000	45,824,753	31,345,966
GOLDEN VALLEY	1,100	4,996,111	5,311,267
GRANITE	2,600	5,515,992	7,660,027
HILL	18,500	46,130,970	43,499,114
JEFFERSON	7,300	16,940,388	19,961,290
JUDITH BASIN	2,700	8,488,691	9,092,418
LAKE	* 19,400	30,766,086	31,130,914
LEWIS & CLARK	* 44,300	68,268,162	67,110,231
LIBERTY	2,400	19,231,032	14,314,390
LINCOLN	* 18,000	34,236,472	35,457,197
MADISON	5,800	16,477,691	17,765,597
McCONE	2,800	9,943,235	9,042,509
MEADE	2,200	7,825,647	8,206,466
MINERAL	* 3,500	4,790,935	8,595,158
MISSOULA	* 75,200	112,938,623	116,409,929
MUSSELSHELL	4,600	23,754,513	14,167,583
PARK	* 13,300	19,316,441	20,236,075
PETROLEUM	700	5,657,126	2,455,023
PHILLIPS	5,400	26,112,806	32,654,850
PONDERA	6,300	21,573,344	18,214,383
POWDER RIVER	2,500	37,513,875	16,505,334
POWELL	* 6,700	12,695,528	12,872,821
PRAIRIE	1,900	5,367,348	4,950,395
RAVALLI	* 23,500	27,752,397	23,348,442
RICHLAND	14,900	101,739,124	60,705,892
ROOSEVELT	11,300	75,075,118	42,152,651
ROSEBUD	12,200	217,690,460	224,670,227
SANDERS	9,000	28,885,409	31,401,460
SHERIDAN	6,000	86,753,770	38,046,570
SILVER BOW	* 36,600	36,758,757	38,145,752
STILLWATER	5,800	16,365,298	17,182,920
SWEET GRASS	3,300	6,352,179	7,317,246
TETON	6,400	19,534,892	17,251,132
TOOLE	5,700	42,018,537	31,499,475
TREASURE	1,000	4,471,562	5,139,502
VALLEY	9,900	41,707,363	32,767,676
WHEATLAND	2,300	6,902,265	7,537,179
WIBAUX	1,500	22,630,249	14,198,251
YELLOWSTONE	113,400	219,473,046	227,726,840
TOTAL	804,400	\$2,260,761,567	\$2,000,744,543

COUNTY	POPULATION	FY88 MILL VALUE
BEAVERHEAD	8,500	314,987
BIG BORN	11,400	112,743
BLAINE	6,900	22,111
BROADWATER	3,300	11,323
CARSON	8,600	24,040
CARTER	11,700	5,323
CASCADE	60,100	91,761
CHouteau	6,100	27,737
CUSTER	13,300	13,772
DANIELS	2,600	7,527
DANFORTH	12,700	22,523
DEER LODGE	11,400	3,221
FALLON	3,300	44,403
FERTIG	13,000	20,722
FLATHEAD	52,300	57,774
GALLATIN	45,200	43,220
GARFIELD	1,700	7,037
GLACIER	11,000	31,246
GOLDEN VALLEY	1,100	5,311
GRANITE	2,400	7,460
HILL	13,500	43,499
JEFFERSON	7,300	19,751
JUDITH BASIN	2,700	9,092
LAKE	19,400	31,131
LEWIS & CLARK	44,300	47,110
LIBERTY	2,400	14,314
LINCOLN	12,000	32,457
MADISON	5,200	17,722
MACDONALD	2,200	9,043
MCHENRY	2,200	8,022
MINERAL	3,500	8,572
MISSOULA	73,200	116,410
MUSKELGHEE	4,200	14,123
PARK	13,300	20,223
PETROLEUM	700	2,452
PHILLIPS	5,400	22,322
PONDERA	6,200	12,214
POWDER RIVER	2,500	15,202
PONELL	6,700	12,272
PRAIRIE	1,700	4,920
RAVALLI	23,500	29,242
RICHLAND	14,700	30,702
ROOSEVELT	11,300	42,123
ROSSBURG	12,200	224,690
SANDERS	9,000	31,401
SHERIDAN	5,000	22,047
SILVER BOW	36,600	32,123
STILLWATER	5,300	17,123
SWEET GRASS	3,200	7,217
TETON	6,400	17,221
TOLLE	5,700	31,499
TREASURE	1,000	5,140
VALLEY	9,900	32,722
WEATLAND	2,300	7,527
WISLAUX	1,600	14,123
YELLOWSTONE	113,400	227,727
TOTAL	204,400	31,772,523

COUNTY	POPULATION	FY87 F00R	FY83 F00R	FY87 LEVY	---FY87 LEVY LIMITED ASSUMPTION---		
		FUND LEVY	FUND LEVY	6A AND 6M	6A	6M	TOTAL
BEAVERHEAD	8,500	12.000	12.001	5.372	2.842	2.565	5.407
BIG MORN	11,400	1.391	1.254	0.016	2.842	2.565	5.407
BLAINE	6,900	2.474	2.714	0.077	2.842	2.565	5.407
BROADWATER	3,300	7.256	6.664	0.000	2.842	2.565	5.407
CARBON	8,300	5.005	6.781	0.794	2.842	2.565	5.407
CARTER	1,700	1.000	1.000	0.007	2.842	2.565	5.407
CASCADE	* 20,100	12.733	12.000	9.179	N/A	N/A	9.179
CHOUTEAU	6,100	2.532	2.456	0.174	2.842	2.565	5.407
CLUSTER	12,300	9.920	9.920	1.186	2.842	2.565	5.407
DANIELS	2,200	3.354	1.394	0.425	2.842	2.565	5.407
DANSON	12,700	3.730	5.840	0.719	2.842	2.565	5.407
DEER LODGE	* 11,600	12.000	12.001	7.947	N/A	N/A	7.947
FALLON	3,200	0.463	0.732	0.315	2.842	2.565	5.407
FERGUS	12,000	9.230	9.230	0.335	2.842	2.565	5.407
FLATHEAD	* 52,200	12.000	12.000	5.592	N/A	N/A	5.592
GALLATIN	45,300	4.612	4.446	0.204	2.842	2.565	5.407
GARFIELD	1,700	4.061	1.300	0.010	2.842	2.565	5.407
GLACIER	11,000	7.083	5.995	0.276	2.842	2.565	5.407
GOLDEN VALLEY	1,100	0.874	0.000	0.301	2.842	2.565	5.407
GRANITE	2,600	5.430	5.600	0.923	2.842	2.565	5.407
HILL	19,500	5.323	10.723	1.150	2.842	2.565	5.407
JEFFERSON	7,300	1.468	1.056	0.166	2.842	2.565	5.407
JUDITH BASIN	2,700	2.193	2.190	0.007	2.842	2.565	5.407
LAKE	* 19,400	12.000	12.000	4.507	N/A	N/A	4.507
LEWIS & CLARK	* 44,300	12.000	12.000	6.165	N/A	N/A	6.165
LIBERTY	2,400	0.310	0.535	0.000	2.842	2.565	5.407
LINCOLN	* 18,000	12.000	12.000	6.955	N/A	N/A	6.955
MADISON	5,300	4.353	4.784	1.340	2.842	2.565	5.407
MCCONE	2,800	1.740	0.319	0.066	2.842	2.565	5.407
MEAGHER	2,200	3.337	3.391	0.147	2.842	2.565	5.407
MINERAL	* 3,500	12.000	12.000	8.187	N/A	N/A	8.187
MISSOULA	* 75,200	12.249	12.347	9.109	N/A	N/A	9.109
MUSSELSHELL	4,600	3.033	4.523	0.125	2.842	2.565	5.407
PARK	* 13,300	12.630	12.000	7.707	N/A	N/A	7.707
PETROLEUM	700	1.000	2.500	0.257	2.842	2.565	5.407
PHILLIPS	5,400	4.100	4.100	0.277	2.842	2.565	5.407
PONDERA	6,600	8.000	8.000	1.308	2.842	2.565	5.407
POWDER RIVER	2,500	0.325	0.000	0.006	2.842	2.565	5.407
POWELL	* 6,700	12.000	12.000	7.349	N/A	N/A	7.349
PRAIRIE	1,900	0.000	0.000	0.000	2.842	2.565	5.407
RAVALLI	* 23,500	12.000	12.000	6.320	N/A	N/A	6.320
RICHLAND	14,900	1.500	3.533	0.297	2.842	2.565	5.407
ROOSEVELT	11,300	2.954	4.023	0.379	2.842	2.565	5.407
ROOSEVOT	12,200	0.856	0.371	0.042	2.842	2.565	5.407
SANDERS	9,000	4.000	4.000	0.231	2.842	2.565	5.407
SHERIDAN	6,000	1.111	1.239	0.024	2.842	2.565	5.407
SILVER BOW	* 35,600	12.000	12.000	9.601	N/A	N/A	9.601
STILLWATER	5,200	5.797	4.501	0.123	2.842	2.565	5.407
SWEET GRASS	3,300	5.616	1.501	0.032	2.842	2.565	5.407
TETON	6,400	2.966	3.200	0.277	2.842	2.565	5.407
TOOLE	5,700	1.477	2.633	0.429	2.842	2.565	5.407
TREASURE	1,000	2.936	2.940	0.601	2.842	2.565	5.407
VALLEY	9,900	3.920	5.180	0.589	2.842	2.565	5.407
WHEATLAND	2,300	6.265	7.115	0.258	2.842	2.565	5.407
WIBAUX	1,600	1.040	0.380	0.019	2.842	2.565	5.407
YELLOWSTONE	112,400	11.097	10.500	1.254	2.842	2.565	5.407
TOTAL	804,400	5.601	5.633	1.790	2.842	2.565	5.407

\* DENOTES STATE-ASSIGNED COUNTY WITH 12 MILL STATE LEVY

## GENERAL ASSISTANCE PROGRAMS IN OTHER STATES

The 1983 Urban Systems study noted that most state and local general assistance programs provide continuing or emergency income assistance as a "safety net" for low-income individuals who do not qualify for federally supported programs. Beyond this, programs vary widely. In the authors' words:

... general assistance programs have few common characteristics. Eligibility criteria vary from strict disability requirements (often pending SSI determinations) to broad income requirements with no categorical restrictions. Benefit levels vary from small one-time payments to regular payments virtually identical to AFDC or SSI. Forms of assistance vary from bus tickets or fire wood to vendor payments to vouchers to cash...Some are funded, controlled, and administered by states, some are state supervised and locally administered, and some are totally a local (county or municipal) function. Compounding all this variation is the fact that general assistance program characteristics -- particularly eligibility criteria and benefit levels -- are unusually sensitive to budget pressures. As a result, general assistance programs fluctuate and change much more frequently than any other part of the welfare system. 1/

This chapter describes general assistance programs along the following dimensions: eligibility criteria, residency requirements, benefit levels, payment methods, time limits on participation, medical benefits, type of administration, and methods of staffing. Referrals to treatment for incapacities, to SSI, to vocational rehabilitation, and to employment or work programs are also explored.

This chapter focuses on the 36 states in which general assistance (state or local) is available state-wide.

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1/ Characteristics of General Assistance Programs, 1982.  
Urban Systems Research and Engineering, Inc., Cambridge,  
Massachusetts, May 1983, pages 1-2.

## Eligibility Criteria

For purposes of comparison with Washington's GA-U program, there are four basic types of general assistance program:

- o **Income-Based Programs.** Low income is the sole or primary eligibility criterion in such programs. Other criteria can include participation in work or job search programs by "able bodied" recipients. Medical incapacity is usually a ground for exemption from work requirements.
- o **Categorical Programs.** In order to receive assistance from such programs, financially eligible recipients must fall into one of several categories. Categories can include the incapacitated, ex-offenders, older people, people with limited work history, etc.
- o **Incapacity-Based Programs.** These are defined as categorical programs in which over 90 percent of cases are eligible due to physical or emotional incapacities that prevent work. Washington's GA-U program falls into this category.
- o **Mixed Programs.** Some states mandate that local governments provide general assistance programs but do not specify the eligibility rules to be used. Programs may be income-based, categorical, or incapacity-based from one jurisdiction to the next. Some states share the costs of such programs; others do not.

Twenty-seven of the 36 states had open-ended general assistance programs. They provided, or mandated that other jurisdictions provide, funds sufficient to pay benefits to all persons eligible for assistance.

Nine states had fund-limited programs. A fixed amount is appropriated for general assistance in each fiscal period. In some states, payments may be reduced to conserve funds if utilization is higher than expected. In others, there is no expectation that appropriated amounts will meet all needs, and applicants are turned away when funding is exhausted.

Table 2.1 categorizes state general assistance programs by type of eligibility requirements and whether they are open-ended or fund-limited.

TABLE 2.1  
ELIGIBILITY CRITERIA AND FUNDING STATUS OF STATE  
GENERAL ASSISTANCE PROGRAMS

Eligibility Criteria	Funding Status	
	Open-Ended	Fund-Limited
Income-Based Programs:	Connecticut, Maine Michigan, Montana <u>a</u> / New York, New Jersey Ohio, Wisconsin <u>b</u> /	Arkansas, North Dakota, South Dakota Wyoming
Categorical Programs:	Arizona, Delaware Hawaii, Kansas <u>c</u> / Massachusetts Minnesota <u>c</u> / Pennsylvania	Alaska, Vermont
Incapacity-Based Programs:	Maryland, New Mexico Oregon, Rhode Island South Carolina, Utah Washington, West Virginia	Missouri
Mixed Programs:	California, Illinois New Hampshire Virginia	Indiana, Nebraska
States With No State-Wide Program:	Alabama, Colorado, Florida, Georgia, Idaho Iowa, Kentucky, Louisiana <u>d</u> /, Mississippi Nevada, North Carolina, Oklahoma <u>d</u> /, Tennessee Texas	

SOURCE: Characteristics of General Assistance Programs, 1982; Urban Systems Research and Engineering, Inc. and contacts with state officials between September 1986 and January 1987.

NOTES: a/ Montana took over administration of its county-run general assistance programs in its most populated counties in 1985. Montana attempted to establish a categorical program in 1986, but has been blocked from doing so in court.

b/ Wisconsin increased state funding and responsibility for its county administered program and imposed a state-wide payment standard in 1986.

c/ Kansas and Minnesota have changed their income-based programs to categorical programs since 1983.

d/ Louisiana and Oklahoma have abolished their fund-limited programs since 1983.

## 1. Incapacity-Based Programs

All nine states with incapacity-based programs -- Maryland, Missouri, New Mexico, Oregon, Rhode Island, South Carolina, Utah, Washington, and West Virginia -- used medical evidence to determine incapacity. Cases could be approved for reasons other than verified incapacity in each state, but 90 percent or more of current caseloads were eligible due to incapacity.

### a) Programs Similar to GA-U

Four states had programs for incapacitated individuals similar to Washington's GA-U program -- Maryland, Oregon, Rhode Island, and Utah. The remaining states -- Missouri, New Mexico, South Carolina, and West Virginia -- had programs that were much more limited.

With few exceptions, Washington's GA-U recipients must have physical, mental, or emotional incapacities that are expected to last 60 days or more. The four states most similar to Washington differed somewhat in duration requirements and qualifying incapacities.

Oregon's duration requirement for incapacities was the closest to Washington's. Oregon set a 60 day duration requirement for incapacities, but made slightly different exceptions to this rule. Utah set a 30 day limit and allowed district managers to approve persons with incapacities of shorter duration. Maryland and Rhode Island set no minimum duration for qualifying incapacities.

Maryland, Rhode Island, and Washington treated alcoholism and drug addiction as incapacities qualifying a person for assistance. Oregon served alcoholics and drug addicts only if their diseases caused irreversible physical or mental damage.

Utah provided caseworkers with considerable discretion in eligibility determination. Two categories of recipients were served: the "unemployable" (as determined from physician's statements), and the "marginally employable". Alcoholics can be enrolled as marginally employable recipients at the discretion of district managers, even if they are not unemployable for medical reasons. State officials reported that, in practice, alcoholics tend to be excluded from the program.

Age, education, and prior work experience were used to determine the degree to which physical or emotional limitations prevent work in each of the five states. The combinations in which such factors were considered varied from state to state.

In general, Maryland and Washington considered past work history and education in their eligibility determinations at younger ages (50 to 55 and below, depending on the severity of physical or emotional limitations) than Oregon and Utah (age 60).

Maryland and Washington also allowed less discretion in how social factors were considered in determining eligibility. The qualifying combinations of age, education, work experience, and physical or emotional limitations were specified in tables included in state welfare manuals.

Rhode Island and Utah provided more latitude to caseworkers in considering social factors in eligibility determination. Borderline cases were usually reviewed or approved by supervisors.

#### b) Programs More Restrictive than GA-U

The remaining incapacity-based programs had fewer similarities to Washington's GA-U program due to restrictive eligibility standards, limited benefits, or both. Three of the four states (Missouri, South Carolina, and West Virginia) paid cash benefits of less than \$100 per month. Two states (New Mexico and South Carolina) provided no medical benefits to program participants. New Mexico and South Carolina also imposed time limits on participation.

#### c) Interim Assistance Programs for SSI Applicants

Two states, Alaska and Illinois, ran interim assistance programs for SSI applicants that functioned as incapacity-based programs for the disabled. These programs were separate from their state's general assistance programs and had different, more generous, payment standards.

The 1983 Urban Systems report did not describe separate interim assistance programs, probably because state officials did not consider them to be a form of general assistance. Our survey of state officials did not include questions about separate interim assistance programs.

While additional states could offer separate interim assistance programs, the number is probably small. References in the the 1983 Urban Systems report identified interim assistance to SSI applicants as a common use of most state general assistance programs.

## 2. Categorical Programs

Categorical programs had five basic types of eligibility categories: incapacity, age, employable adults, children or families not eligible for AFDC, and persons being released



from prisons or treatment institutions. Recipients were also required to meet income and resource requirements.

All categorical programs provided benefits to incapacitated adults. Some states also provided assistance to family members providing care for incapacitated adults. However, incapacitated adults accounted for less than 90 percent of categorical program caseloads, by definition.

Minimum age requirements set by states in which age was one of the eligibility factors ranged from 40 in Vermont to 55 in Hawaii and Kansas. <sup>2/</sup> Arizona, Kansas, Minnesota, and Pennsylvania provided temporary assistance for employable individuals. Categories related to the AFDC program included families or children not eligible for AFDC, high school students completing their education, and displaced homemakers.

Categories related to institutionalization included residents in alcohol and drug abuse treatment facilities, persons recently released from such facilities, residents in psychiatric half-way houses, persons recently released from mental institutions, and ex-convicts.

Miscellaneous categories used by some states included participants in vocational rehabilitation programs, persons unable to communicate in English, persons who had exhausted Unemployment Compensation benefits, and persons in rural areas who lack transportation.

### Residency Requirements

Most states required general assistance recipients to be state residents at the time of application and required that applicants intend to continue residing in the state. Some states also provided temporary assistance to non-resident transients, such as bus tickets, to help non-residents move on.

Until recently, no state required a minimum length of residency as a condition of eligibility. The United States Supreme Court ruled, in 1969, that such durational residency requirements are not legal.

The state of Wisconsin established a 60 day residency requirement in 1986, using language intended to meet

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<sup>2/</sup> Age limits set in other states included 45 (Pennsylvania and Massachusetts) and 54 (Delaware). Age was considered in combination with other factors in Vermont. Arizona and Minnesota consider age in determining eligibility, but did not set formal age limits.

constitutional challenges. The limit was necessary to obtain passage of legislation raising payment standards above levels available in Illinois. However, state officials did not expect the limit to survive court challenge.

### Benefits Levels

Washington's GA-U payment standard of \$314 per month was one of the highest in the United States. Only Suffolk County, in New York, paid a higher amount. Payment standards for individuals with no income who pay shelter costs are shown in Figure 2.1.

In 1982, Washington was one of 10 states that paid single general assistance recipients the same amount as a one-person AFDC case would receive. Table 2.2 lists states with general assistance payment standards lower than, equal to, or higher than AFDC payment standards.

West Virginia is unique in that it provides only medical assistance. The cash grant portion of its general assistance program has not been funded since 1980.

### Payment Methods

States varied widely in payment method. Twenty-two of the 36 states with statewide programs paid benefits in cash. Four states provided benefits only through vendor payments or vouchers and two states provided cash, vendor payments, and/or vouchers. Payment methods varied by county or municipality in seven states. West Virginia, as noted earlier, provided no income assistance payments in any form. Table 2.3 lists states using each arrangement.

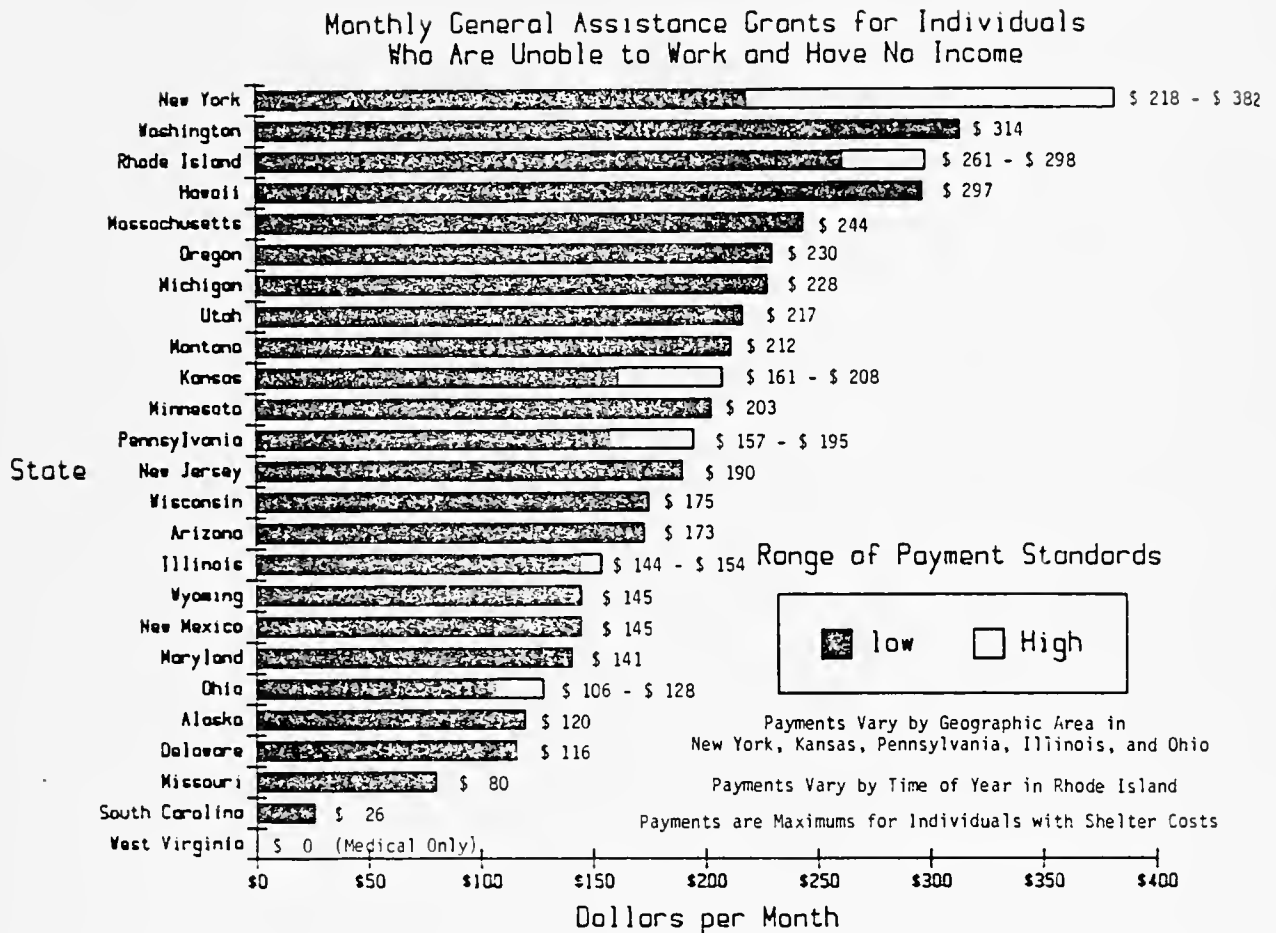
According to the 1983 Urban Systems study, seven of the states making cash payments provided vendor payments for recipients who could not manage their financial affairs. Washington was included in this category.

Washington generally uses protective payee arrangement rather than vendor payments when recipients cannot manage their affairs. Vendor payments are provided only at the request of the payee. In July 1986, less than one percent of Washington's GA-U recipients received benefits through a protective payee.

### Time Limits on Participation

Most states with incapacity-based programs allowed recipients to receive assistance as long as they were medically and financially eligible. South Carolina and New Mexico were

FIGURE 2.1



SOURCE: Contacts with state officials between December 1986 and January 1987.

TABLE 2.2

RELATIONSHIP BETWEEN STATE AFDC PAYMENTS AND GENERAL ASSISTANCE PAYMENTS  
FOR INDIVIDUALS WHO ARE UNABLE TO WORK

Relationship	State
General Assistance Higher than AFDC:	New Hampshire, New Jersey <u>a</u> /, New Mexico
General Assistance Equal to AFDC:	Arizona, Hawaii, Illinois, Indiana, New York, Ohio Rhode Island, Utah, Washington, Wyoming
General Assistance Lower than AFDC:	Alaska, Arkansas, California, Connecticut, Delaware Kansas, Maryland, Massachusetts, Michigan, Minne- sota, Missouri, Montana, Nebraska, Oregon, Pennsylv- ania, South Carolina, West Virginia, Wisconsin Vermont, Virginia
Unknown/Varies:	Maine, North Dakota, South Dakota

SOURCE: See Table 2.1. All comparisons, except for Michigan, are taken from the 1983 Urban Systems report and are for 1982.

NOTES: a/ Only for individuals who are unable to work. The payment standard for individuals who are able to work was lower than the AFDC payment standard.

TABLE 2.3  
PAYMENT METHODS USED IN STATE GENERAL ASSISTANCE PROGRAMS

Payment Method	State
Direct Cash: <u>a</u> /	Arizona, Delaware, Hawaii, Kansas, Maryland, Massachusetts, Missouri, Montana, New Mexico, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Wyoming
Cash, with Vendor Payments for those unable to handle funds: <u>b</u> /	Michigan, Minnesota, New York, Oregon, Utah, Washington, Wisconsin
Vendor Payments and Vouchers:	Arkansas, Maine, North Dakota, South Dakota
Cash, Vendor Payments, and Vouchers:	Alaska, Vermont
Method Varies by County or Municipality:	California, Connecticut, Illinois, Indiana, Nebraska, New Hampshire, Virginia
Medical Benefits Only:	West Virginia

SOURCE: See Table 2.1. Most data were taken from the 1983 Urban Systems report and are for 1982. Methods are known to have changed since 1982 in Montana and Wisconsin.

NOTES: a/ Some states in this category probably use protective payee arrangements for recipients deemed unable to manage their funds, but did not report this to Urban Systems researchers.

b/ The Urban Systems report states that Washington provides vendor payments for those who are unable to manage their funds. Washington actually uses protective payee arrangements. When the department assumes the role of protective payee it provides vendor payments on behalf of recipients. This may be the case for other states in this category as well.

the only states that placed time limits on assistance to incapacitated individuals.

South Carolina limited general assistance eligibility to one six-month episode per person. New Mexico limited benefits to 11 out of any 12 months for disabilities regarded as temporary.

States with categorical programs often set time limits on participation within some categories. Pennsylvania provided assistance to those participating in alcohol treatment programs for up to 9 months. Kansas provided benefits to patients released from psychiatric hospitals to three months. Recipients could reapply under regular general assistance guidelines to continue beyond those time limits.

Four states with categorical programs -- Arizona, Kansas, Minnesota, and Pennsylvania -- offered time-limited programs for "employable" adults and continuing programs for incapacitated adults. Such time-limited programs are similar to the General Assistance-Noncontinuing Program offered by Washington State until 1981. Montana enacted a similar program in 1986, but implementation has been blocked in court by challenges based on that state's constitution.

Pennsylvania's program, called the Transitionally Needy program provided benefits for 90 days in any year. Alcoholics could enter this program if they were not old enough or incapacitated enough to continue in the state's Categorically Needy program after the nine months of alcohol treatment eligibility were exhausted.

Arkansas and Wyoming limited eligibility to four months per year in their fund-limited, income-based programs.

Washington's GA-U program, although primarily incapacity-based, places time limits on participation for some types of recipients. Washington provides benefits to persons participating in residential (in-patient) alcohol or drug abuse treatment for periods ranging from 30 to 180 days, depending on the type of program, and for 60 days to persons being released from inpatient psychiatric treatment. Recipients must reapply under regular general assistance guidelines in order to continue receiving assistance.

### Medical Benefits

Medical coverage for general assistance recipients varied widely. Twenty-one states, including Washington, provided medical benefits directly through their general assistance programs. Nine more states had separate state-funded medical assistance programs for which general assistance recipients were categorically eligible. Two states had

separate medical programs for indigents with eligibility criteria similar, but not identical, to general assistance criteria. Four states, including two with incapacity-based programs, provided no medical benefits at all.

Nineteen states, including Washington, provided medical assistance benefits to general assistance recipients that are less comprehensive than those available under their federally-funded Medicaid programs. Ten states provided similar coverage, and three states provided more comprehensive coverage than available under Medicaid. Table 2.4 lists states by type of medical program and comprehensiveness of coverage.

### **Type of Administration**

Sixteen of the 36 states with state-wide general assistance programs administered their programs directly. Another 11 supervised programs that were administered by county or municipal governments according to state guidelines. Six states mandated programs but did not supply guidelines on program rules. The remaining states administered their programs directly in some parts of the state and allowed counties or municipalities the option of administering their own programs. Table 2.5 lists states by level of government administering the program.

### **General Assistance Program Staffing**

In most states, general assistance eligibility was determined by the same income maintenance staff who determined eligibility for all other assistance programs. Only five states -- Illinois, New Mexico, Rhode Island, Utah, and Washington -- employed staff who were specialists in general assistance eligibility determination or case management.

In Rhode Island, General Public Assistance Workers performed the same functions as Washington's Incapacity Specialists, but also determined financial eligibility. Caseloads were limited to 75 per worker under the provisions of union contracts.

Utah is currently conducting a pilot project to provide case management to general assistance recipients in the Salt Lake City area. Specialists provided case management and advocacy services only. Financial and medical eligibility were still determined by income maintenance workers.

Illinois used general assistance specialists to conduct redeterminations in Chicago, where it administers general assistance directly.

TABLE 2.4

## MEDICAL BENEFITS PROVIDED WITH STATE GENERAL ASSISTANCE PROGRAMS

Type of Program	Scope of Coverage		
	Less Than Medicaid	Similar To Medicaid	Greater Than Medicaid
Part of General Assistance Program:	Arkansas, Illinois Maine, Massachusetts Michigan, Missouri Nebraska, New Hamp- shire, North Dakota Ohio, South Dakota Vermont, Virginia Washington, Wisconsin	Connecticut Kansas, New Jersey, Oregon West Virginia	Alaska
Separate Program; General Assistance Categorically Eligible:	California, Minnesota Montana	Hawaii, Maryland New York, Penn- sylvania	Rhode Island Wyoming
Separate Program; Separate Eligibility Criteria:	Utah	Arizona	
No Program:	Delaware, Indiana New Mexico, South Carolina		

SOURCE: See Table 2.1. All data are for 1982 from the 1983 Urban Systems report.



TABLE 2.5  
LEVEL OF GOVERNMENT ADMINISTERING GENERAL ASSISTANCE PROGRAMS

Level of Government	State
State Administered:	Alaska, Arizona, Delaware, Hawaii, Kansas Massachusetts, Michigan, Missouri, New Mexico Oregon, Pennsylvania, Utah, Vermont Washington, West Virginia, Wyoming
State Supervised, County Administered:	Arkansas, Maryland, Minnesota, New York, Ohio South Carolina, Virginia <u>a/</u> , Wisconsin
State Supervised, Municipally Administered:	Connecticut, New Jersey, Rhode Island Virginia <u>a/</u>
County Administered:	California, Nebraska, New Hampshire <u>b/</u> North Dakota, South Dakota
Municipally Administered:	Indiana, New Hampshire <u>b/</u>
Mixed Administration: <u>c/</u>	Illinois, Maine, Montana

SOURCE: See Table 2.1. The administration of programs in Montana and Wisconsin have changed since the 1983 Urban Systems report was written.

NOTES: a/ Virginia's general assistance program is county administered in some areas and municipally administered in others. All programs are under state supervision.

b/ New Hampshire's general assistance program is county administered in some areas and municipally administered in others.

c/ General assistance is administered directly by the state in some areas and by counties (Illinois and Montana) and municipalities (Maine) in others. The state administers general assistance in the most urban areas of Illinois and Montana and in the most rural areas of Maine.

New Mexico employed one examiner in its state headquarters to make all medical eligibility determinations.

States that did not employ specialized general assistance staffs sometimes provided medical consultants to assist income maintenance workers in making incapacity determinations.

## Referrals to Other Programs and Services

### 1. Referrals to Treatment

Most states did not require general assistance recipients with substance abuse or mental health problems to participate in treatment as a condition of receiving benefits. Hawaii, New York, New Mexico, Oregon, Rhode Island, and Washington required treatment for alcoholics, drug addicts, and/or the mentally ill. New York provided shelter, but no cash, to alcoholics who were not participating in treatment.

### 2. Referrals to SSI

Virtually all states took steps to identify general assistance applicants or recipients who might be eligible for SSI, required recipients to apply for SSI, provided assistance payments while SSI applications were pending, and attempted to recover the costs of those benefits after SSI approval. Methods of facilitating SSI approval varied widely.

#### a) Use of Specialized General Assistance Staff

States that employed specialized staff to serve general assistance recipients, including Rhode Island, Utah, and Washington used those workers to make and monitor SSI referrals. Case workers were responsible for assisting with SSI applications, providing transportation, tracking outcomes, assisting with appeals, and making referrals to legal assistance if necessary. Workers were expected to stay in close contact with SSI eligibility determination staff to make sure that clients kept appointments and provided complete medical information.

Rhode Island provided case workers with computerized methods of tracking SSI applications and approvals. Washington is currently testing an automated clerical support system with similar capabilities in several King County CSOs. Computerized crossmatching of files GA-U authorization files with files indicating SSI application status is also being implemented.

Vocational rehabilitation counselors also played a case management role for general assistance recipients in some states.

#### b) Use of SSI Specialists

Some states -- such as Oregon and Pennsylvania -- hired SSI specialists whose sole job was to assist general assistance recipients with SSI applications, medical documentation, and appeals. The scale of such activities varied widely. Pennsylvania employed 100 such specialists, with average caseloads of 328. Oregon employed three to four specialists, with caseloads of 400 to 425. These states did not use specialized staff to examine medical eligibility or provide social services within their general assistance programs, and therefore needed specialized staff to assist with SSI applications.

Oregon's staff were assigned to regional offices and handled referrals from local office eligibility staff. They used a consulting nurse to assist in determining which clients, of those referred, should be required to submit SSI applications and which SSI denials should be appealed.

Pennsylvania's staff was located in local welfare offices. They were assisted by Medical Review Teams, teams of doctors who assist in determining who should be referred to SSI and review SSI denials. Medical Review Teams submitted their own medical evidence when appealing SSI denials. The SSI approval rate for general assistance recipients referred under this system was 63 percent.

Both systems were believed to save money. Oregon has evaluated its system based on whether interim assistance recovered from SSI was sufficient to cover the costs of added staff. The results of this analysis were not available.

Pennsylvania justified its system as a way to reduce general assistance caseloads rather than through increased SSI recoveries. Pennsylvania staff estimated that their system saved the state \$9,300,000 per year based on an average of 3,600 SSI approvals. This figure was based on the assumption that general assistance cases would have remained on public assistance for an average of one year in the absence of the program. 3/

#### c) Use of SSI Trainers

Most states, including Washington, trained eligibility workers in SSI referral techniques and specific referral

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3/ Annualized figures were calculated from findings for the first 20 months of the project.

procedures. Use of generic income maintenance workers to handle general assistance eligibility requires greater efforts in this area. Michigan and New York, for example, have established special staffs of trainers to assist county eligibility staff in determining which general assistance recipients should be referred to SSI and in how to prepare documentation for SSI eligibility determinations. New York has used former SSI eligibility examiners to perform this task.

d) Contingency Fees for Attorneys Representing General Assistance Recipients Appealing SSI Denials

Three states -- Illinois, Oregon, and Washington -- paid attorneys a contingency fee for representing SSI applicants on appeal. The fee may be up to 25 percent of the general assistance payments recovered from SSI by the state. Any attorney, public or private may participate. In fiscal year 1986, Washington attorneys received \$ 314,000 under this arrangement, or just under four percent of all recoveries of general assistance benefits. Attorneys were reimbursed in cases involving just under 15 percent of all financial recoveries.

e) Contracts with Legal Services Organizations

Other states, such as Massachusetts, Maryland, Montana, and New York contracted directly with local legal services organizations to represent general assistance clients on SSI appeals and assist clients with SSI applications when clients would have difficulty preparing applications on their own. Potential clients were screened and referred by public assistance offices. Legal services staff then tracked applications and represented clients on appeal.

Massachusetts had the most experience with legal services contracts. Its program has been in operation since 1983, and was established by statute in 1985. The program was managed by the Massachusetts Legal Assistance Corporation. Assistance was provided by trained paralegals supervised by attorneys in 14 legal offices state-wide. Project attorneys, or private attorneys paid by project funds, represented SSI appellants in federal court. The project served all SSI applicants, regardless of whether they received general assistance. 4/

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4/ Information on the Massachusetts contract was obtained from Cost/Benefit Analysis of the Disability Benefits Project; Developmental Disabilities Law Center; Boston, Massachusetts, March 1986. Additional information was obtained from the scope of work for the project's 1986 contract.

The Massachusetts program was successful in 85 percent of the 541 decisions reached for its clients in 1985. Forty-five percent of the project's successful appeals involved general assistance recipients. The remainder were AFDC recipients (10 percent) and non-assistance recipients (45 percent).

The project claimed that its 1985 performance produced \$ 2,667,000 in savings over three years at a cost of \$ 929,000, yielding net savings of \$1,738,000. Net financial recoveries of general assistance payments from SSI through interim assistance agreements amounted to \$ 318,000, or just over one-third of the project's cost.

The balance of the projected savings were based on presumed reductions in general assistance caseloads. Legal services analysts assumed that 92 percent of those represented would have received general assistance for three years in the absence of the project. While caseload reductions are likely, there is no way of knowing how many SSI applicants assisted by the legal assistance project would have been approved without its help.

In 1986, Massachusetts paid the legal assistance program \$1,191 per SSI applicant referred for services and selected the persons to be referred. Massachusetts's contract also included a maintenance of effort clause designed to ensure that local legal services offices received no money until they represented more general assistance recipients than would have been served without the project.

Maryland is contracting with local legal services organizations to provide services to 100 general assistance recipients on a pilot basis. Proposed budgets called for spending approximately \$ 1,160 per referral to legal services.

### 3. Referrals to Vocational Rehabilitation

Most states, including Washington, refer general assistance recipients with temporary incapacities to their Divisions of Vocational Rehabilitation for assistance. Referrals are required of all incapacitated general assistance recipients in Hawaii, Kansas, Ohio, and Utah.

The proportion of referrals accepted by vocational rehabilitation staff was not known in any state, but estimates ranged from less than 10 percent in New Mexico to 30 percent in Utah. Washington's Division of Vocational Rehabilitation serves approximately seven percent of GA-U recipients. The percent of recipients referred and accepted by vocational rehabilitation may vary from state to state with the characteristics of local general assistance recipients.

In some states, vocational rehabilitation staff take on some of the case-management role assumed by incapacity specialists in Washington State. In Massachusetts, Kansas, and Rhode Island, vocational rehabilitation staff refer general assistance recipients who cannot be rehabilitated to the SSI program, providing vocational work-ups to SSI eligibility examiners. These work-ups are designed to demonstrate that the incapacities of the recipients have prevented, and prevent return to, employment.

#### 4. Work Requirements and Job Preparation

Twenty-three of the 36 states offering general assistance imposed work, job search, or training requirements (other than vocational rehabilitation) in some or all jurisdictions. Rhode Island and Utah were the only states with incapacity-based programs to offer such services, and Rhode Island's program was offered primarily for the 10 percent of its caseload deemed employable.

Utah distinguished between "unemployable" and "marginally employable" recipients, and required some marginally employable recipients to participate in Utah's Work Relief program, working 96 hours per month. Those who did not cooperate were rarely sanctioned because of their marginal employability.

The remaining 21 states mandated participation in work, job search, or training for employable recipients. Employability was generally determined by physician's statements, so incapacitated recipients were usually excluded from participation. However, voluntary participation may be possible in some states.

The 12 states without work programs were Alaska, Arizona, Arkansas, Delaware, Maryland, Missouri, New Mexico, Oregon, South Carolina, Vermont, Washington, West Virginia, and Wyoming. These states tended to have incapacity based programs (seven states) and/or benefits so low that recipients could work them off in less than 40 hours per month at the minimum wage (six states).

# I. MONTANA CONSTITUTION

## A. Art. X, § 5 (1989) (Att. #A)

Counties shall provide as may be prescribed by law.

## B. Art. XII, § 3(3) (1972) (Att. #B)

Legislature shall provide as may be necessary ... age, infirmity, or misfortune....

# II. 1972 CONSTITUTIONAL CONVENTION

## A. Official Comment on Art. XII (Att. #1)

Change from county to statewide levy or combination.

## B. Delegate Proposal #45 (Att. #2)

(1) Amendment to Declaration of Rights, Art. II, § 3.

(2) Bill of Rights and Public Health, Welfare, Labor committees.

(3) The right to basic necessities of life, including the right to adequate nourishment, housing and medical care.

(4) Official Comments to Art. II, § 3: (Att. #3)

(a) discussed defeat of proposal #45 and right to pursue life's basic necessities;

(b) intent was not to create a substantive right.

# III. ARTICLE XII, § 3(3)

## A. "Shall" or "may" provide welfare.

(1) Delegate McNeil's concern/motions:

(a) inalienable right created?

(2) Debate focused on:

(a) county v. state responsibility;

(b) don't "step back past" 1889 Constitution - Harper;

- (c) retain consistency with other provisions in constitution regarding natural resources, agriculture, environment, clean air, and education - Robinson;
  - (d) Professor Lopach's Montana Law Review article. (Att. #4)
- B. McNeil motion to delete Art. XII defeated.
- C. McNeil motion to change "shall" to "may" defeated.
- D. McNeil motion to add "the opportunity to earn" after the word "provide" defeated.
- E. Motion for adoption of Art. XII pass on voice vote (i.e. not recorded).

#### IV. MONTANA LEGISLATURE - 1987

- A. HB 637 (Att. #5)
  - (1) Constitutional amendment changing "shall" to "may".
  - (2) Incentive for bill resulted from the three Butte Community Union court cases which:
    - (a) raised the amount of cash assistance;
    - (b) prohibited the cut-off of assistance based on able-bodiedness, dependent children and age; and
    - (c) prohibited the cut-off of assistance based on able-bodiedness and whether dependent children in household.
- B. Montana Supreme Court
  - (1) Welfare not a fundamental right but Art. XII welfare programs necessitate a "heightened scrutiny" test.
  - (2) Montana constitutional provision on welfare is strongest in country.

#### V. IMPLICATIONS/CURRENT COMPLAINTS

- A. Limitation of welfare to the able-bodied without children to 2 months.



- B. Amount of assistance - AFDC/GA.
- C. Whether the income of relatives in or out of the same household can be counted.
- D. Elimination of payments for eyeglasses, hearing aids, and dentures.
- E. Inclusion of lump sum payments for taxes, insurance settlements, etc. as income (to be spent at monthly benefit level) or as resource (spend as you wish).
- F. Expansion of group homes and services for developmentally disabled and mentally ill.
- G. Guarantee of safe and clean housing or simply enough to pay for cheapest rental available.
- H. Federal/State law conflict.
  - (1) Federal Supremacy versus independent and separately required state programs.
- I. Ability to define "medically necessary" service, e.g. drug and alcohol rehabilitation, abortions, organ transplants.

Prepared by: Russell Cater

REC/lc

## Public Health, Welfare, Labor and Industry Committee

## COMMENTS ON MAJORITY PROPOSAL

## ARTICLE X INSTITUTIONS AND ASSISTANCE

Section 1. INSTITUTIONS. Such institutions as the public good may require shall be established and supported by the state as may be prescribed by law.

## COMMENTS

The section as amended deletes specific mention of several institutions set forth in the existing section. It was the feeling of the committee that no special purpose is served by the specific mention of these institutions in as much as a general delegation of authority should be sufficient.

Section 2. ASSISTANCE. It shall be the duty of the legislative assembly to provide economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities or misfortune may have need for the aid of society.

## COMMENTS

The original section placed the burden of taxation upon the several counties of the state to provide by tax levy for their indigents. The proposed section changes this to provide that the legislative assembly shall decide where this tax burden should rest, counties as at present or a state wide levy, or some combination thereof. The testimony taken on this matter showed conclusively that welfare recipients tend to congregate in the larger cities of our state, partly because of better job opportunities, and partly because of better welfare facilities. It was shown that the welfare recipients from the smaller counties tend to gather in Great Falls, Anaconda, Butte, Missoula, Billings, etc., imposing a disproportionate burden on the taxpayers of these counties. The proposed section would allow the legislature to place this burden on a state wide basis if it so chose and thus correct this inequity. Your committee considered the possibility of providing that it would be "the duty of the state to provide economic assistance . . .", but we believed that this would be equally as restrictive as the existing section and believe the matter should be one for legislative discretion.

DELEGATE PROPOSAL  
No. 45 - Individual Rights

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MONTANA CONSTITUTIONAL CONVENTION

1971-1972 -

DELEGATE PROPOSAL NO. 45

DATE INTRODUCED: JAN. 27, 1972

Referred to Bill of Rights and Public Health, Welfare, Labor & Industry Committees

III, 3

A PROPOSAL AMENDING ARTICLE III, SECTION 3 OF THE CONSTITUTION OF THE STATE OF MONTANA RECOGNIZING THE RIGHT TO BASIC NECESSITIES.

BE IT PROPOSED BY THE CONSTITUTIONAL CONVENTION OF THE STATE OF MONTANA:

Section 1.. Article III, Section 3 of the present Constitution is amended to read as follows:

"Sec. 3. All persons are born equally free, and have certain natural, essential, and inalienable rights, among which ~~may be reckoned~~ are the right of enjoying and defending their lives and liberties, the right to the basic necessities of life including the right to adequate nourishment, housing, and medical care. of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways."

INTRODUCED BY: /s/ Lyle R. Monroe

/s/ Richard E. Roeder

/s/ Harold Arbanas

/s/ Bob Campbell

/s/ Lucile Speer

/s/ Dorothy Eck

/s/ Virginia H. Blend

## Bill of Rights Committee Proposal

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seeking their safety, health and happiness in all lawful ways. In enjoying these rights, the people recognize corresponding responsibilities.

### COMMENTS

*Emphasis added*

The committee proposes with two dissenting votes that the former Article III, section 3 be retained with a few substantive changes. The committee struck language which was felt to be redundant. In addition, it is recommended that the right to pursue life's basic necessities be incorporated as a statement of principle. The intent of the committee on this point is not to create a substantive right for all for the necessities of life to be provided by the public treasury.

The committee heard considerable testimony, from low income and social services people alike, that the state's current public assistance programs are not meeting the genuine needs of low income people who, because of circumstances beyond their control, are unable to obtain basic necessities. Accordingly, it is hoped that the legislature will have occasion to review these programs and upgrade them where necessary to provide full necessities to those in genuine need and to curb whatever abuses may exist in the programs.

What was attempted in this part of the proposed section was a statement of the principle that all persons have the inalienable right to pursue the basic necessities of life—that there can be no right to life apart from the possibility of existence.

The other inalienable rights were included with only minor changes in style for purposes of clarity. An additional right, the right of seeking health was incorporated in recognition of the fact that a right to life without health is a sorry proposition.

The final sentence of this section is new having been derived from delegate proposal No. 116. Testimony was received both favoring and opposing the inclusion of a statement of corresponding responsibilities in the declaration of rights. Some expressed the feeling that many were accepting rights without recognizing that they create obligations. Others were adamant that a declaration of rights should contain just that: the rights of persons against governmental abuses and the rights of minorities against the power of unchecked majorities. The committee felt that the inclusion of such a statement does not infringe or impair the rights granted in the declaration of rights but only accords a tone of responsibility to their exercise.

A number of delegate proposals were rejected in the drafting of this section. Delegate proposal No. 45 stipulated a substantive right to the necessities of life. No. 93 proposed an inalienable right to collectively bargain. The committee felt

## ARTICLE XII

### DEPARTMENTS AND INSTITUTIONS

#### Section

1. Agriculture.
2. Labor.
3. Institutions and assistance.

**Section 1. Agriculture.** (1) The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture.

(2) Special levies may be made on livestock and on agricultural commodities for disease control and indemnification, predator control, and livestock and commodity inspection, protection, research, and promotion. Revenue derived shall be used solely for the purposes of the levies.

**Section 2. Labor.** (1) The legislature shall provide for a Department of Labor and Industry, headed by a Commissioner appointed by the governor and confirmed by the senate.

(2) A maximum period of 8 hours is a regular day's work in all industries and employment except agriculture and stock raising. The legislature may change this maximum period to promote the general welfare.

**Section 3. Institutions and assistance.** (1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature shall provide such economic assistance and social and rehabilitative services as may be necessary for those inhabitants who, by reason of age, infirmities, or misfortune may have need for the aid of society.

CHAPTER NO. 343

HOUSE BILL NO. 637

INTRODUCED BY WINSLOW

## IN THE HOUSE

FEBRUARY 6, 1987

INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FEBRUARY 16, 1987

COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 17, 1987

PRINTING REPORT.

FEBRUARY 18, 1987

SECOND READING, DO PASS.

FEBRUARY 19, 1987

ENGROSSING REPORT.

THIRD READING, PASSED.  
AYES, 70; NOES, 30.

TRANSMITTED TO SENATE.

## IN THE SENATE

FEBRUARY 21, 1987

INTRODUCED AND REFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE & SAFETY.

MARCH 23, 1987

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 26, 1987

SECOND READING, CONCURRED IN.

MARCH 28, 1987

THIRD READING, CONCURRED IN.  
AYES, 33; NOES, 17.

RETURNED TO HOUSE.

## IN THE HOUSE

MARCH 30, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.



AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XII, SECTION 3, OF THE MONTANA CONSTITUTION TO ALLOW THE LEGISLATURE GREATER DISCRETION IN PROVIDING ECONOMIC ASSISTANCE AND SOCIAL AND REHABILITATION SERVICES TO THOSE IN NEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature historically has prescribed the public policy governing the provisions of economic assistance and social and rehabilitation services to those in need; and

WHEREAS, the Legislature is the appropriate body of state government to determine the needs of its residents; and

WHEREAS, the Montana Supreme Court, in a recent decision, determined that the Montana Constitution requires that statutes relating to such assistance and services are reviewable under a heightened scrutiny test; and

WHEREAS, the Legislature finds that it is in the public interest to restore to the Legislature the power to prescribe the provision of economic assistance and social and rehabilitation services to those in need, subject to review under the rational basis test.

THEREFORE, it is the intent of the Legislature to refer this constitutional amendment to the people of the state in order to restore the historical power of the Legislature to set eligibility level criteria for programs and services, as well as for the duration and level of benefits and services relating to economic

assistance and social and rehabilitation services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Article XII, section 3, of The Constitution of the State of Montana is amended to read:

"Section 3. Institutions and assistance. (1) The state shall establish and support institutions and facilities as the public good may require, including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature may provide such economic assistance and social and rehabilitative services for those who, by reason of age, infirmities, or misfortune, are determined by the legislature to be in need.

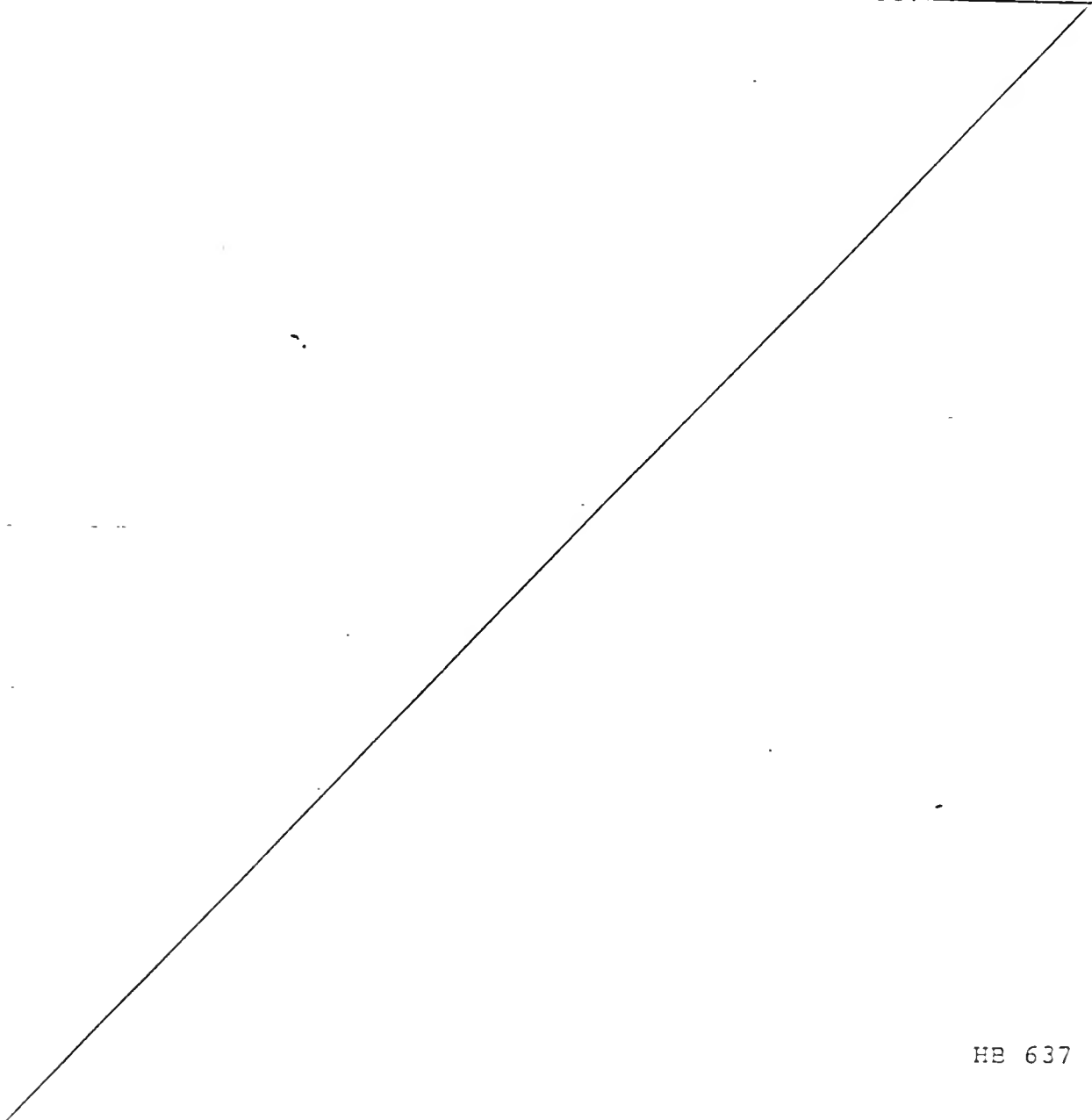
(4) The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services."

Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 1989.

Section 3. Submission to electorate. This amendment shall be submitted to the electors of Montana at the general election to be held November 8, 1988, by printing on the ballot the full title of



this act and the following:

- ☐ FOR allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.
  - ☐ AGAINST allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.
- 

## CHAPTER NO. 343

[HB 637]

AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE XII, SECTION 3, OF THE MONTANA CONSTITUTION TO ALLOW THE LEGISLATURE GREATER DISCRETION IN PROVIDING ECONOMIC ASSISTANCE AND SOCIAL AND REHABILITATION SERVICES TO THOSE IN NEED; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature historically has prescribed the public policy governing the provisions of economic assistance and social and rehabilitation services to those in need; and

WHEREAS, the Legislature is the appropriate body of state government to determine the needs of its residents; and

WHEREAS, the Montana Supreme Court, in a recent decision, determined that the Montana Constitution requires that statutes relating to such assistance and services are reviewable under a heightened scrutiny test; and

WHEREAS, the Legislature finds that it is in the public interest to restore to the Legislature the power to prescribe the provision of economic assistance and social and rehabilitation services to those in need, subject to review under the rational basis test.

THEREFORE, it is the intent of the Legislature to refer this constitutional amendment to the people of the state in order to restore the historical power of the Legislature to set eligibility level criteria for programs and services, as well as for the duration and level of benefits and services relating to economic assistance and social and rehabilitation services.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Article XII, section 3, of The Constitution of the State of Montana is amended to read:

"Section 3. Institutions and assistance. (1) The state shall establish and support institutions and facilities as the public good may require,

632

## MONTANA SESSION LAWS 1987

Ch. 344

including homes which may be necessary and desirable for the care of veterans.

(2) Persons committed to any such institutions shall retain all rights except those necessarily suspended as a condition of commitment. Suspended rights are restored upon termination of the state's responsibility.

(3) The legislature *may* provide such economic assistance and social and rehabilitative services for those who, by reason of age, infirmities, or misfortune, *are determined by the legislature to be in need.*

(4) *The legislature may set eligibility criteria for programs and services, as well as for the duration and level of benefits and services."*

Section 2. Effective date. If approved by the electorate, this amendment is effective January 1, 1989.

Section 3. Submission to electorate. This amendment shall be submitted to the electors of Montana at the general election to be held November 8, 1988, by printing on the ballot the full title of this act and the following:

- ☐ FOR allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.
- ☐ AGAINST allowing the legislature greater discretion to determine the eligibility, duration, and level of economic assistance and social services to those in need.

Approved April 3, 1987.

# Professor says Supreme Court out of line

By CHARLES S. JOHNSON  
Tribune Capitol Bureau

HELENA — An article in the current edition of the Montana Law Review sharply criticizes the role played by the Montana Supreme Court tort and welfare reform in recent years.

"The court in these cases has relied upon questionable interpretations of the state constitution and disregarded the legitimate processes and decisions of the 1972 Montana Constitutional Convention, the Montana Legislature and the democratic initiative," wrote James Lopach, chairman of the University of Montana Political Science Department. His article appears in the review published by the UM Law School last week.

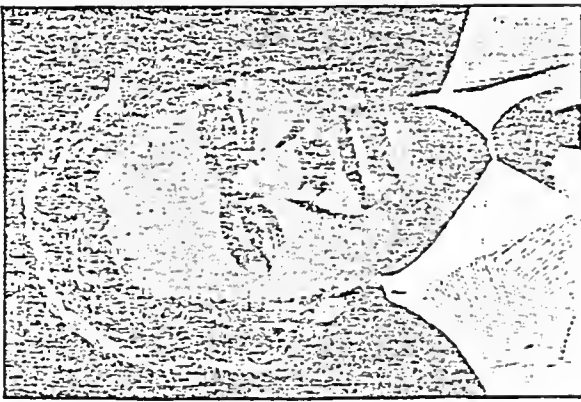
"Rather cavalierly it has disregarded a recent constituent assembly and the authorized and good faith decisions of legislative representatives," Lopach added. "The court's insistence that it must have the last word in state policymaking has severely damaged democratic politics."

Both in tort and liability reform, Lopach said the court "ignored constitutional intent and legislative prerogative and installed itself as the state's chief policy maker."

Lopach criticized the court's majority for striking down efforts by the Legislature to limit liability damages awarded in civil lawsuits and attempts to restrict welfare benefits.

"The court's activism, at least in the instances of tort reform and welfare reform, has placed it inappropriately at the center of the state's politics," he said.

Lopach wrote that the constitutional design for Montana's political system "will be realized only if the



James Lopach

Legislature is allowed to be, as intended, the people's branch of government."

"The Montana Supreme Court should encourage this role rather than promote itself as the Legislature's rival in policy matters," he said.

The UM professor said the Supreme Court has been "the willful actor in the state's political system."

Lopach said the Montana Legislature has had "a shameful past," citing past accounts of lawmakers "selling their political souls to lobbyists of 'the Company,'" referring to the Anaconda Co. and Montana Power Co. earlier this century.

"Even legislators with the integrity to resist the temptations of evening-time Helena frequently were overpowered by the expertise of

corporate agents amidst the intense pressures of legislative workload and deadlines," he said.

But he said the 1972 constitution provides for a strong Legislature that keeps close to voters through single-member legislative districts, required open meetings and recorded votes.

"The constitutional design was, very simply, that the Legislature would be a strong lawmaking branch of government, both responsive and accountable to the people," he said.

Lopach said the Supreme Court ought to bear that in mind as it defines its own role with respect to the Legislature. The court, he said, "should use restraint as well as reasoning to assist the Legislature to perform its intended role."

He specifically criticized these decisions by the court:

- *White vs. State*, 1983. This decision ignored a 1974 constitutional amendment and struck down as unconstitutional attempts to grant partial immunity to state and local governments, from civil liability lawsuits.

The ruling "ignores the Legislature's legitimate role in governmental liability law as defined by constitutional language and intent, judicial precedent and accepted legal and political theory," he said.

- *Pfost vs. State*, 1985. This ruling struck down a later legislative attempt to limit liability in lawsuits

against government units. Although the legislative findings show that the Legislature acted with reflection and not arbitrarily in setting up two different categories of litigants in these cases, the Supreme Court overrode the effort, Lopach said.

- Constitutional Initiative 30 in 1986 and 1987. The court nullified voter approval of CI-30, which empowered the Legislature to set limits in liability lawsuits.

- Butte Community Union vs. Lewis, 1986. This struck down as unconstitutional an effort by the 1985 Legislature to eliminate or restrict general assistance welfare payments to able-bodied, childless people. Lopach accused the court of resorting "to contrivance to achieve their desired result."

"The justices would give access to welfare benefits a significance that was denied by both the Montana Constitutional Convention and the Montana Legislature," he said.

The effect of this welfare decision had led to the "disruption of Montana's political system," Lopach said, adding: "The court's activism has frustrated successive meetings of the state Legislature where a central concern was containing welfare spending."

Ironically, Lopach said, Constitutional Convention delegates felt they were leaving the continuing oversight of welfare policy to the Legislature.

Great Falls Tribune

Sept. 23, 1987

DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES



TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

July 22, 1988

TO: Gail Gray  
Director

FROM: Russ Cater  
Chief Legal Counsel *RC*

RE: County liability

You have requested my legal opinion regarding the potential liability of counties under three separate scenarios of involvement with the administration of the county welfare programs. Due to limited time constraints and with your consent the answers to these questions are from my basic legal background, current practice, etc. but without the benefit of detailed research. As such, my responses are very limited.

1. What would be the county liability if the state assumed all welfare benefit programs but kept the hiring decisions joint between state and county personnel?

Answer: Basic principles of employment/tort law indicates that the person who performs a wrong by an act or omission and the result causes an injury to another person is liable. The county would be liable if they have the final or joint authority to hire or fire an employee. They would also be liable if they maliciously maligned an individual's character or without just cause or reason to believe provided false information to the hiring authority. The structure of a joint hiring or firing program is fraught with problems. A split decision acts as an inducement for the losing party to bring legal action.

2. Whether the county is liable if administrative personnel from the counties prepared a county plan that the state could override for just cause? (For purposes of this question I am assuming that the county plan would establish the eligibility criteria, amounts of benefits to be paid, and certain excludable resources. It is also assumed that the state controls and performs all other administrative functions.)

Gail Gray  
Julv 22, 1988

Answer: Under this scenario a county's liability is limited. Liability would only exist in those situations where the county administrative personnel based their recommendations on personal bias or prejudice and acted with gross negligence in preparing a county plan. It would be appropriate, however, for the county to be named as a party in any lawsuit challenging the legality of the county plan. Under this scenario there is joint responsibility to develop the plan and therefore there is joint liability.

3. What would be the county liability if the state assumed all welfare benefit programs including responsibility for employee hirings and firings but had advice from the county commissioners?

Answer: Section 53-2-821, MCA provides for the creation of advisory councils in counties that have opted for state assumption. The county would not assume any liability unless the advice received from the county was based upon bias, prejudice or discrimination. Liability would only exist in those situations where the advice provided by the county contained information which would malign the character of an individual without just cause.

REC/rm

cc: Matt Shearer ✓

## REGIONAL AND MULTI-COUNTY OPTIONS FOR MONTANA

a) The coordination model - The Regional Coordinating Council

## (1) General Description

The option for local governments and the state to establish Regional Coordinating Councils would be created by the legislature and implemented through interlocal agreements involving all counties in a designated area or region. The Councils would be governed by appointees of county commissioners and the governor who are not providers of human services.

The purposes of the Councils would be to coordinate human services in their areas; to contract with state agencies for the administration of interagency projects, staff and facilities; to directly administer small programs that can not be efficiently administered by a separate organization; to develop a plan for shared support services.

## (2) Functions

The Regional Coordinating Council would review all plans submitted to the state and federal governments by local human service agencies. It would prepare annual plans and recommendations for coordination of local services. The Council would prepare a plan for long range consolidation of support services for local programs.<sup>1</sup>

The Regional Coordinating Council would serve as an advisory committee to local and state human service agencies on how to improve local services.

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<sup>1</sup> Nothing would prohibit the Council from planning for further consolidation at an administrative level; it would not be mandated.

### (3) Implementation

The Council would require staff in order to carry out its planning, coordinating and administrative duties. Consequently, savings realized from this option would accrue over the long run not the short.

Since the Councils would exist by virtue of interlocal agreements, it is hard to predict that each region will elect to create a council or, if so, exactly when. Lead time for establishing, preparing and staffing a council is estimated to be 6 months.

Planning for various aspects of support service consolidation which a council might elect to try would be an ongoing process. It is unlikely that significant changes would take place during the first year of operation and some might require several years. For example, creating a single point of service entry, even in a small community, could require a series of smaller consolidations over a number of years. Conversely, sharing a receptionist or even a vehicle for travel to outlying communities could be accomplished with relatively less planning and expenditure.

#### b) the consolidation model - a local umbrella agency

##### (1) General Description

The legislature would create human service districts governed by persons nominated by county commissioners and appointed by the governor. These districts and governing bodies would be state entities.

This option would create one local agency to administer all local programs which are a state responsibility and which are not contracted to private non-profits. This option would require a clear determination of which programs were a state responsibility and which are a county responsibility. For example, the state would be responsible for administration of public assistance, protective services, employment security and institutions. The state would be responsible for contracted services and would administer contracts through the regional umbrella agency. The state would retain overall planning, evaluating and auditing responsibilities.



Traditionally local responsibilities such as local government services and County Extension would be unaffected by this option. However, it remains for the Task Force to make recommendations for the assignment of specific responsibilities for administration of human services.<sup>2</sup>

## (2) Functions

The local umbrella agency would administer all human service programs not specifically assigned to the state level, e.g., workers compensation.

The local umbrella agency would develop a plan for consolidation of administration and support services of all human service programs administered at the local level. The local umbrella agency would develop a plan for coordination with local human service agencies.

## (3) Implementation

In order to be successful, this option would require implementation over a period of time and would require considerable involvement of local program personnel in planning and implementation. One model of implementation suggested by a combination of comments to the Task Force would provide for the following sequence of events: a) establishing representative planning groups in each region with a three year planning and phase in deadline; b) hire an administrator/planner to assist each group through the process; c) involve local agencies, affected government entities and others in the planning process; d) establish new chains - of - command, finance management procedures, support service transition steps and the like prior to implementation.

Start up costs would be incurred but long term savings would more then offset this expense.

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<sup>2</sup> Part a. of the Executive Order Creating the Task Force.

c) the zero option - an administrative change model<sup>3</sup>

(1) General Description

The administrative change model would amount to implementing those features of multi-county or regional coordination and service delivery that are now allowable under existing statute by administrative directive and executive order. In some cases this would mean empowering existing districts or regions by decentralizing final hiring and further budget and decision making authorities. In other situations this would mean further use of interlocal agreements to share resources and administration of services, e.g., consolidating rural county health functions. In still others it would mean administratively creating districts or regions where they do not now exist and where no significant change in statute would be needed.

The region would make use of existing regional boards and advisory groups, creating or unifying planning groups as necessary and as allowable under existing statute.

(2) Functions

An administratively implemented district or region would carry out shared functions within its home department. Combining of state functions that are now separated between two or more state agencies might be available as an option through interdepartmental agreement but would not necessarily be required.

The region would administer its own budget, review and monitor local contracts for services, prepare and carry out annual plans for coordination within its own departmental units and with other agencies.

(3) Implementation

The administrative change option is the most likely to be accepted by those who would be affected -- the agencies and providers who might lose authority or scope of action in

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<sup>3</sup> See Appendix - The Real Zero Option: A Few Words in Defense of the Status Quo for a discussion of the value and virtues of the existing system of service delivery.

multi-county efforts at coordination or delivery of services. Over time it would require changes in certain of the Administrative Rules of \*Montana, however, this option would not require significant changes in legislation. Rather, it would require a major commitment on the part of department directors and the executive. An administrative option would take at least a year to implement and would likely require an executive commitment over a period of two terms to establish it as an institutionalized practice, e.g., we've always done it that way.

d) The private non profit option - contracted services

(1) General Description

The private non-profit option would be a continuation in privatization of services. Much of Montana's community based service infrastructure is made up of private non-profits which contract with the various state human services agencies to deliver local services. There exist now non-profits which serve multi-county areas and which could over a period of time phase in contracted services for those state program administration responsibilities which were assigned for multi-county service delivery. Legal opinions have been secured<sup>4</sup> which suggest that Montana is free to contract out programs such as AFDC, Medicaid and others which do not carry police power (protective services) or which would seem inappropriate (workers compensation).<sup>5</sup>

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<sup>4</sup> See Appendix - letters from SRS and DHES staff attorneys which are concurred with by the Governor's Chief Legal Officer.

<sup>5</sup> Many concerns would need to be resolved. For example, what if no private non-profit in a particular area met the requirements for delivery of a region-wide service? Or, what if no agency met the bid criteria necessary to administer the monies necessary to carry out a service?

## (2) Function

Annually, the state would accept bids for "Unified Service Contracts." Bidders would be required to describe the services they would provide, how they would be delivered, their direct and indirect costs, the nature and degree of coordination between services provided and how that would be accomplished. Using MACO districts as an example, the state would request proposals from 10 districts for an entire range of programs; evaluating them and subsequently issuing, monitoring and auditing 10 contracts. For example:

STATE DEPARTMENTS  
(SRS, LABOR, HEALTH, INSTITUTIONS, DFS, COMMERCE)

(CONSULTATION/CONCURRENCE WITH LOCAL ELECTED OFFICIALS)

State/Direct Programs	Unified Contract Programs
Worker's Compensation	LIHEAP/Weatherization/TEFAP
Unemployment Insurance	DD Home/ Comm Based Service
	Services/Personal Care
	Mental Health Services
	Aging Services
Vital Record/Statistics	WIC/HCS/Family Planning
Mt. State Prison	Youth Group Homes
Medicaid	Displaced Homemaker/PWP/
Adult/Child Protection	Food Stamps
Licensure/Certification	Job Search/WIN/any new
	AFDC-reform efforts
	JTPA Programs
	Section 8 Housing/rental
	assistance
	Community Services
	Public & Spec Transport
	services <sup>6</sup>

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<sup>6</sup>This is a partial list and only an example of how the Task Force might sort out state and other responsibilities for administration of human services.

### 3) Implementation

In order to further privatize services through a contractual model several things must occur: a) agreement on a common mission for public assistance programs, common policies for contracting, monitoring, auditing and information management;<sup>7</sup> b) identification of which programs would and would not be contracted; c) determining how and to what extent local officials can be involved to set service areas, funding, reimbursement mechanisms and management systems.

Ideally a single point in government would serve to coordinate large scale delivery of state services by contract.

In order to implement a bid process, current level of funding for each program must be identified; the current population receiving services and projected caseload growth must be determined; and this expressed as "units of service" by bidders. Unified payments would be made to the contracting agency by the state.

Following a year of program planning and development, this system could be implemented at the beginning of the next state fiscal year.

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<sup>7</sup> Each of these areas is critical but agreement on fundamental purpose of assistance related programs by the various agencies would seem to be absolutely essential to contracting state obligations through private parties.

### The Real Zero Option: A few words in defense of the status quo.

The concept of "regionalization" or "regionalized human service delivery" is an attractive one. It leads naturally to the notion of "one stop shopping," "eliminating waste" and reducing duplication, overlap and redundancy.

The concept, however, needs to be examined carefully and critically. The system in place may, in fact, be working very well; and because of, rather than in spite of, all of its duplication. This system, with all its duplication, overlap, multiple entry points, diverse departments, agencies, bureaus, providers and contractors has its advantages. The advantages to this kind of system were explored in detail by Martin Landau in an article published in the July-August 1969 issue of Public Administration Review: "Redundancy, Rationality & the Problem of Duplication and Overlap."

As an example, Montana's Employment and Training programs were described earlier to the Task Force. They were characterized as "client-driven:" established to serve a certain group of individuals in the population (i.e. Displaced Homemakers, Unemployed Workers, Youth, Older Workers, Dislocated Workers, etc.).

In fact nearly every service delivery system in the state is similarly "client-driven." There is a network of AAAs and Senior Centers set up just to serve elderly Montanans. There is a network of Mental Health Centers to serve the mentally ill; a network of DD Homes to serve persons with developmental disabilities; Residential Treatment Facilities for youth, Pre-Release Centers for persons coming out of prison, Job Service Offices for the Unemployed; Welfare Offices for those on public assistance; HRDCs for all low income persons: below, at, or slightly above the official "poverty line."

Generally, these agencies and organizations operate within multi-county jurisdictions. In effect and in practice, services are thoroughly "regionalized" at this time.

Together, this network of agencies and organizations, with all their apparent duplication and overlap, is actually functioning quite well. There is constant, informal consultation among between these agencies at the local level. This type of system is flexible and inclusive. Clients who do not fit into one program's guidelines are referred to and served by another, more appropriate program. Persons with multiple problems, handicaps or difficulties can and do receive multiple services; and this is a strength of the system not a weakness. This type of system is a good one, according to Landau: "It provides safety factors, permits flexible responses to anomalous situations, and provides a creative potential for those who are able to see it."

There are problems at hand more serious than "regionalization" to be addressed:

1. There simply is not enough money in the system.
2. There is not much agreement on the assignment of responsibilities for funding and program administration between state and local governments.
3. Providers of service are asked to assume some liabilities that are more properly the responsibility of the state: wage and hour laws, prevailing wage, etc.
4. There is no clear sense of what services and functions the state should administer directly, and what ones the state should contract out to local government or private non-profit corporations.

Until and unless there is some attention paid to these serious, structural issues there isn't much point in considering "regionalization."

When some serious attention has been paid to these issues, a subsequent analysis might reveal that <sup>the</sup> regionalized network of "client-driven" systems in place right now is, after all, a pretty good system

DEPARTMENT OF  
SOCIAL AND REHABILITATION SERVICES



TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

March 25, 1988

TO: Steve Fenter, Chairman  
Human Services Delivery Task Force  
Office of the Governor  
Capitol Building

FROM: Russell E. Cater, Chief Legal Counsel  
Office of Legal Affairs  
Department of SRS

RE: Contracting of Public Assistance Services

The Governor's Human Services Task Force has requested a legal opinion regarding the following issues:

1. What responsibilities can the state contract for in the area of public assistance? For example, what daily operations of general assistance, general relief medical, AFDC, food stamps, and medicaid can be performed under contract?

State or federal law does not specifically preclude the ability of the state to enter into contracts for the administration of public assistance programs. In fact, in some instances there are specific provisions allowing the Department of Social and Rehabilitation Services (SRS) to enter into contracts for the provision of public assistance or the administration of the program. For example, state law specifically authorizes SRS to contract for medicaid services and the processing of medicaid claims (53-6-115, MCA); contracts with the Department of Labor and other agencies for development of the job search, training and work program (53-2-822 and 53-3-304, MCA); legal assistance for general relief clients to obtain Supplemental Security Income (53-3-210, MCA); and contracts for sheltered workshop services for the severely handicapped (53-7-203, MCA).

Federal law recognizes the ability of state agencies acting as the federal grantee to enter into contracts for certain administrative functions. For example, specific criteria and approval is required when a state agency contracts with a private corporation for the processing of payments for services performed under the medicaid program. Federal medicaid law also discusses certain requirements that are necessary when the department is entering into contracts, i.e. provider agreements, with individuals providing medical services to medicaid recipients.



Steve Fenter

SRS enters into hundreds of contracts every year for the delivery of public assistance benefits. For example, contracts are awarded for the delivery and establishment of group homes providing services to the developmentally disabled, the distribution of food stamps, weatherization of homes, various medical services and the processing of medical claims as well as numerous necessities provided to public assistance recipients. Often times the department enters into contracts with consultants to perform training of staff employees or contracts to provide general advice regarding the administration of the programs.

There are some federal and state laws, however, which do place certain limitations upon the complete "privatization" of public assistance programs. In the major federal assistance programs it is required that there be a "single state agency" to administer or supervise the public assistance programs. See 42 U.S.C.A. 1396a(a)(5) (medicaid); 42 U.S.C.A. 602(a)(3) (AFDC); 7 C.F.R. § 271.2 and 271.4 (food stamps). These federal laws and regulations require that the state agency have final authority to promulgate rules and regulations pertaining to eligibility and services provided. That does not mean, however, that state agencies are prohibited from entering into contracts to assist the state agency in performing its duties.

The ultimate question remains as to whether the "single state agency" can operate with a handful of administrators in determining policy, eligibility standards, and "administration" of the program. Federal and state laws are written with an inherent presumption that the majority of functions would be performed by a state or local (public) agency. Arguably, however, one could contract even for the task of determining eligibility if there was a state employee overseeing and periodically reviewing the work of the contractor.

If the state was to contract for someone to perform eligibility determinations, the contract should contain a "hold harmless" provision to insure that the contractor would reimburse the state for errors or penalties imposed by the federal government. (This is usually computed by the use of sampling.) In addition, contracts must insure confidentiality of recipient records, employment based upon merit, and certain public contracting bidding procedures.

#### ISSUE

2. What statutory changes would be required to allow for the contracting of public assistance eligibility determinations which are currently made at the local level?

#### DISCUSSION

Several state laws would need to be changed if all public assistance duty were privatized. Section 53-2-201, MCA provides

Steve Fenter

that the Department of SRS has the power and duties to administer or supervise public assistance programs. In addition, section 53-2-304 requires the county board of public welfare (i.e. county commissioners) to appoint at least one staff worker for its public assistance program. County boards are authorized to determine whether applicants are eligible for assistance. Section 53-2-603, MCA provides that county departments are under the general supervision of SRS but the county is charged with local administration of the program subject to conformity to SRS rules and federal and state laws. See section 53-2-305 and 306, MCA.

In conclusion almost all of the functions involved in the public assistance programs can be contracted out with the private sector. It is recommended, however, that review and approval be obtained from the federal government before a final determination is made in this area. Montana statutory changes would then be needed to remove current authority provided to county commissioners.

REC/rm

## M E M O R A N D U M

TO: John North, Governor's Counsel

FROM: Ellie Parker, DHES Counsel *EP*

DATE: March 21, 1988

SUBJECT: Regionalization of health services

The following notes should answer the inquiries you passed on to me from the Governor's Human Services Council concerning whether the state's constitution or statutes in any way prohibited creation of districts to provide health services.

Constitution: Art. XI, §3, says the commissioners of two or more counties may create a joint county office or offices.

Sec. 7 of the same article says: "[u]nless prohibited by law or charter, a local government unit may (a) cooperate in the exercise of any function, power, or responsibility with,

(b) share the services of any officer of facilities with,

(c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more other local government units, school districts, the state, or the United States.

Nothing else in the Constitution is remotely relevant to the issue of regionalization of health services.

Local board of health statutes: Section 50-2-107, MCA, clearly authorizes district boards of health. District boards can be created by agreement of two or more adjacent counties. Local health officers can be district-based, as well, by definition [50-2-101(4), MCA]. Funding for the district comes from general fund appropriations from each county in the district, with one county acting as treasurer [50-2-112, MCA].

I am assuming that any region formed to provide health services would naturally be composed of several discrete counties rather than somehow deviating from county lines. If the latter was planned, it would not square with the above statutes or the statutory funding setup.

Please let me know if I can help answer any further questions.

cc: Frank Crowley  
Dr. John J. Drynan

MONTANA SOCIAL WELFARE PROGRAMS - 1987

<u>Department</u>	<u>Program</u>	<u>Funding Source</u>	<u>Regulation</u>	<u>Direct Administration</u> State, County
Social & Rehabilitation Services	Food Stamps	Federal	Federal, State	State, County
	Aid to Families with Dependent Children (AFDC)	Federal 68.9% State 29.2% County 1.9%	Federal, State	State, County
	General Assistance	State Administered State 100%	State	State
	Low Income Energy Assistance Program	Federal	State	Regional, private non-profit
	State Medical	State	State	State
	Medicaid	Federal 68.9% State 31.1%	Federal, State	State, County
	Developmental Disabilities Community Based Services	Federal 72% State 28%	Federal State by Contract	Non-profit organizations
	Rehabilitative Services Division	Federal 80% State 20%	Federal State	State (Some by Contract)
	Visual Services Division	Federal 80% State 20%	Federal State	State (Some by Contract)
	General Assistance-Project Work	State	State	State
Non-Assumed County Government	General Relief	County	County	County
	County Medical	County	County	County

<u>Department</u>	<u>Program</u>	<u>Funding Source</u>	<u>Regulation</u>	<u>Direct Administration</u>
Family Services	Protective Services	Federal 8% State 80% County 11%	State	Regions
	Foster Care	Federal 20% State 64% County 18%	State	Regions
	Child Protective Service Day Care	Federal 33% State 67%	State	Regions
	Mountain View School for Girls	Federal 6% State 94%	State	State
	Pine Hills School for Boys	Federal 15% State 85%	State	State
	Aftercare	State	State	Regions
	Youth Evaluation	State	State	Great Falls Region
	Domestic Violence	State Community	State by contract	Private, Non-profit corps.
	Child Abuse & Neglect-Community Based Services	Federal 40% State 46% Community 14%	Federal, State by contract	Private, non-profit corps.
	Subsidized Adoption	Federal 37% State 63%	State	State
	Aging Services	Federal 86% State 14%	Federal State by Contract	Private, non-profit Corporation

<u>Department</u>	<u>Program</u>	<u>Funding Source</u>	<u>Regulation</u>	<u>Direct Administration</u>
Family Services (cont'd)	SSI Supplement	State	State	State
	Residential Alcohol & Drug Treatment Program For Indigent (ADC) Youth	State	State	State
	Big Brothers & Sisters	State, Local	State by Contract	Private, non-profit corporation
Institutions	Refugee Program	Federal	State by Contract	Private, non-profit corporation
	Montana State Hospital at Warm Springs	Federal 5% State 91% Private 4%	Federal, State	State
	Montana Center for The Aged	Federal 32% State 43% Private 25%	Federal, State	State
	Local Chemical Dependency Treatment Programs	Federal 13% State 14% Private 73%	Federal, State by contract	Regions, counties, private, non- profit corps.
	Community Mental Health Centers	Federal 25% State 42% Local 6% Private 27%	State (Slow transition from federal to state funding & regulation Federal, State	Private, non- profit regional corporations  State
	Mt. Developmental Center & Eastmont Human Services Center (Boulder & Glendive)	Federal 56% State 40% Private 4%		
	Montana Veteran's Home	Federal 30% State 25% Private 45%	Federal, State	State

<u>Department</u>	<u>Program</u>	<u>Funding Source</u>	<u>Regulation</u>	<u>Direct Administration</u>
Labor & Industry	Work Incentive Program (in corporation with Family Services & SRS)	Federal	State	Job Service Offices
	Job Training Partnership Act	Federal	Federal State	Private Industry Councils
	Unemployment Insurance	Federal	State	23 regional job service offices
	Workers' Compensation	State Trust Fund	State	State
	Food Stamp-Job Search	Federal	Federal State	State
	Job Service	Federal	Federal State	State
Health & Environmental Sciences	Statewide Family Planning	Federal	Federal State by Contract	Local Agencies and health departments
	Handicapped Children's Services	Federal	Federal State by Contract	Regional Centers
	Supplemental Food for Women, Infants & Children (WIC)	Federal	Federal State	County and Tribal Health Depts.
	Child Care Food Program	Federal	Federal State	
	Preventive Health Services	Federal 56% State 44%	Federal State	State, local health depts., local health providers

<u>Department</u>	<u>Program</u>	<u>Funding Source</u>	<u>Regulation</u>	<u>Direct Administration</u>
Health &	Environmental Sciences Division	Federal 88% State 11% Other 21%	Federal State Local	State Staff, local agencies
	Vital Statistics & Tumor Registry	Federal 16% State 81% Other 23%	State	State
	Chemistry and Public Health Laboratories	Federal 5% State 35% Other 60%	State	State







## D.D. CONSOLIDATION PROPOSAL: DEPARTMENT OF INSTITUTIONS

- Structure: D.D. Community Services would be given division-level status. The two institution superintendents would report to the division administrator and the chain of command would remain unchanged. Case management and field services would have bureau status in the division.
- Staff: Approximately 500 MDC/Eastmont staff would be moved into the new division, thus making the existing Treatment Services Division more manageable.
- Advantages:
1. D.D. would maintain its visibility and identity through its division status.
  2. Department of Institutions has long-term experience with institutional operation, collective bargaining and Medicaid certification.
  3. Billing is already in place.
  4. Dually-diagnosed clients would benefit from integrated mental health/Montana State Hospital/D.D. services. The Office of Public Instruction could track out-of-state dual-diagnosis placements more easily.
  5. Case managers would have access to all resources.
  6. Reconciles system of services and case management planning responsibility.
- Disadvantages:
1. Department of Institutions is not seen as a "neutral" agency by D.D. Division staff.
  2. Lack of experience in delivering field services.
  3. This may be seen as a philosophical retreat from de-institutionalization and meet with constituency reluctance.

4. D. of I. has been a repeated target for abolishment.
5. Case managers may suffer from lack of objectivity if advocating within their own department.

General Concerns:

1. Rural areas need generic workers.
2. More staff are needed to handle increased case loads.
3. Disparities between state and community-based salaries may cause discontent.
4. School-aged people at MDC must continue to receive mandated educational services. Differences in the Individual Educational Plan and Individual Habilitation Plan should be addressed.
5. Case management for D.D. individuals needs improvement in quality and quantity.
6. Staff may feel manipulated.

Specific Concerns:

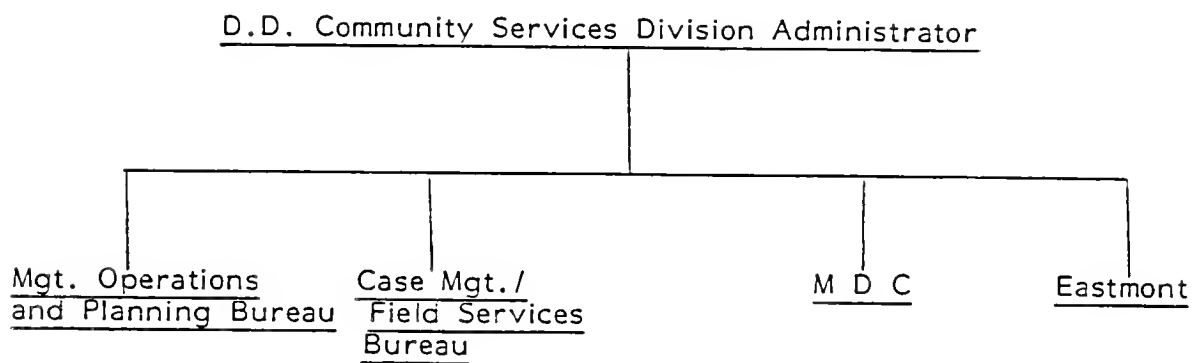
1. Appropriate overhead services, such as legal assistance and the Training Resources Information Center, are crucial. Funds for these must accompany the services.
2. D.D. staff must maintain their identity.

Implementation:

1. Go to the field to get local input and aid in planning.
2. Work with the Budget Office on fiscal issues.

3. Draft legislation for January, 1989.
4. Assemble a management team to develop an organizational plan and transition schedule.
5. Develop statement of purpose.
6. Review past legislative mandates to determine how to effect integration.

## Department of Institutions Organizational Plan



## D.D. CONSOLIDATION PROPOSAL -- SOCIAL AND REHABILITATION SERVICES

Structure: The existing configuration would be retained, with the addition of a Bureau for Institutional Services which would be responsible for overall planning and coordination for MDC and Eastmont. The chain of command would be through the Bureau. Case management services would be transferred from Department of Family Services and also given bureau status.\*

Staff: Unchanged. The appropriate staff from D of I and DFS would be re-located.

Advantages:

1. Would emphasize the continuum of community-based and institutional services.
2. The Division is experienced in dealing with Medicaid, the Medicaid waiver and Medicaid certification.
3. A line of authority exists that focuses on D.D. services and has the necessary expertise.
4. Historically, advocates have been committed to SRS.
5. All three functions (case mgt., institutions, community-based services) would be in one department.
6. D.D. Division is a stable environment; its staff are comfortable there.
7. Reconciles system of services and case management planning responsibility.

\* The organizational structure proposed for D of I would also be an acceptable alternative structure for SRS: Case management and field services combined in a single bureau and each institution reporting directly to the Division Administrator.

Disadvantages:

1. SRS is inexperienced in dealing with institutional programs (i.e. labor relations).
2. D.D. has three geographic areas; this presents a problem with case management (currently under DFS, with five regions).
3. The institutions may be reluctant to be "stepchildren" of SRS.
4. Case managers would be carrying a split workload between SRS/DFS. In rural areas, more FTE's and support services would be necessary. Case management services might be otherwise fragmented.

General Concerns:

1. Rural areas need generic caseworkers.
2. More staff are necessary to handle increased caseloads.
3. School-aged people at MDC must continue to receive mandated educational services. Differences in the Individual Educational Plan and the Individual Habilitation Plan must be addressed.
4. Case management for D.D. individuals needs improvement in quality and quantity.



5. When a reorganization is planned, staff may feel manipulated.
6. Disparities in state and community-based salaries may be a source of discontent.
7. Should return to 5 D.D. regions no matter what option is chosen.

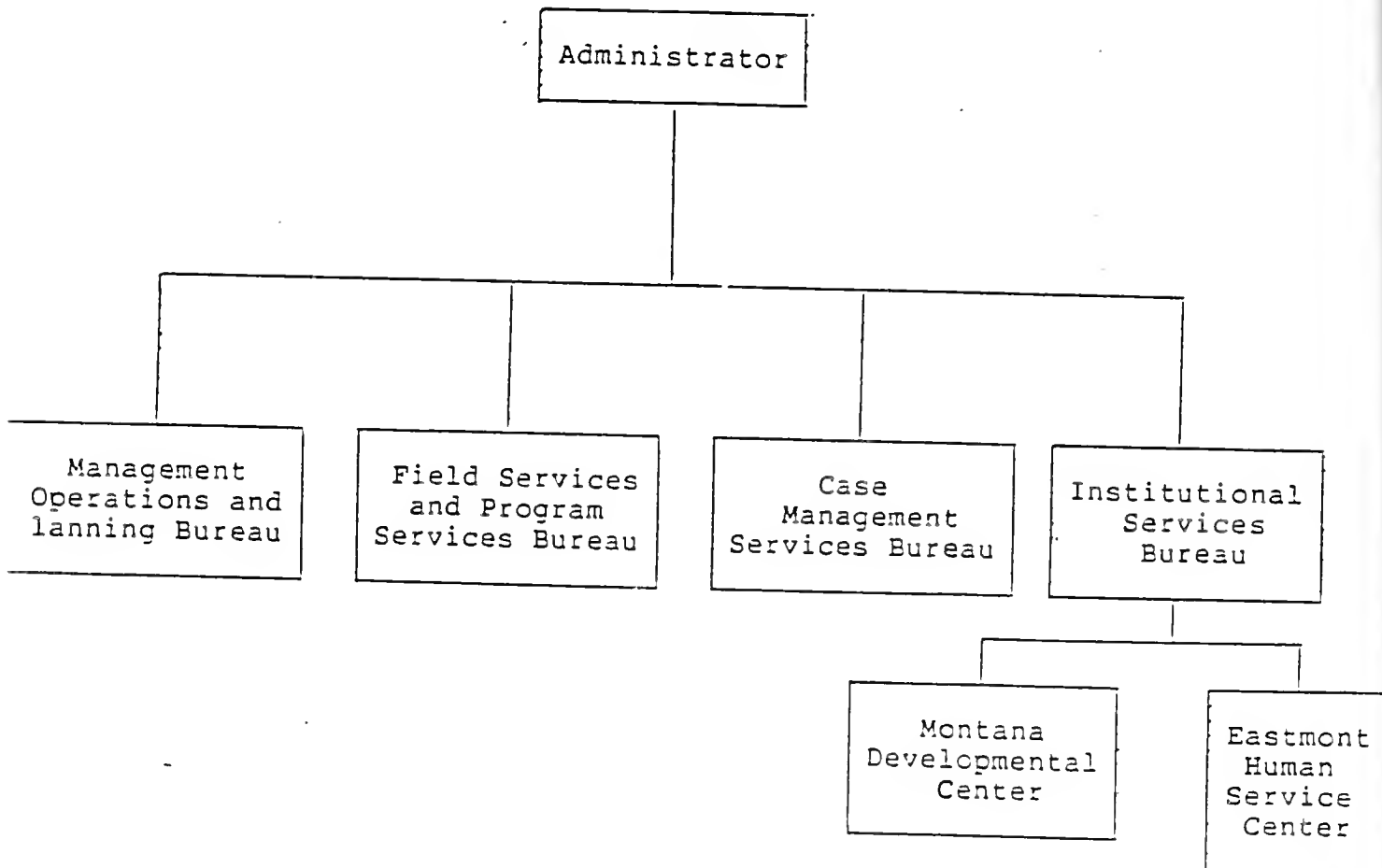
Specific Concerns:

1. D. of I. should continue to provide billing, as the system is automated and computerized. Transferring this function would be very expensive and time-consuming.
2. D. of I. staff would be needed initially to brief SRS staff on labor relations issues.
3. Case manager services should remain with DFS in order to retain objectivity and independence.

Implementation:

1. Go to the field to get local input and aid in planning.
2. Work with Budget Office to resolve fiscal issues.
3. Draft legislation for January, 1989/
4. Put together a management team to devise an organizational plan and a transition schedule.
5. Draft a statement describing how services will improve.
6. Review past legislation to determine how to effect integration.

## Division of Developmental Services



## D.D. CONSOLIDATION PROPOSAL: DEPARTMENT OF FAMILY SERVICES

Structure: There would be significant change in the chain of command. The existing Developmental Disabilities Division field structure would be integrated with the existing Department of Family Services field structure, and the chain of command would come up through regional staff. D.D.D. would revert to a five-region structure from its present three-area configuration; this would be a strong regional concept with coterminous boundaries for DFS regions and DD regional managers.

Developmental Disabilities staff planning and training functions would be integrated with DFS Program and Planning Division. Montana Developmental Center and Eastmont would be line units reporting to the DFS director. The Advisory Council structure would also be regionalized and the Developmental Disabilities Planning and Advisory Council would have the same relationship to DFS as the State Aging Council now has. Regional administrators would deal directly with local advisory councils.

Staff: Existing staff will be retained. The number of FTE's would remain the same. D.D. field staff would be under DFS regions; other staff would be assigned to appropriate DFS Divisions (i.e., auditors would go to

the DFS Audit Division, etc.) Each region will have a D.D. regional manager. Two more D.D. regional managers would be required and would be made up from existing FTE's.

Advantages:

1. Management authority and staff positions are clearly defined.
2. Local staff would be accountable to local citizens.
3. DFS is viewed as a "neutral" agency.
4. This allows for a general approach to rural area service delivery.
5. This avoids the possibility of major line functions coming through someone else, i.e., intermediate management staff.
6. DFS has some experience with institutions and may be more acceptable to institutional staff.
7. This would result in a totally integrated structure.
8. DFS has the case management function, which would centralize all three functions.
9. D.D. Division would return to a five-region configuration for all functions.
10. Reconciles system of services and case management planning responsibility.

Disadvantages:

1. With the addition of the D.D. institutions, the DFS director has a wide span of control.

2. D. of I. currently handles billing for the institutions; this would be difficult and expensive to transfer.
3. DFS lacks labor relations capacity.
4. DFS is a new department with unsolved problems.

#### General Concerns:

1. Rural areas require generic caseworkers.
2. More staff are needed to handle increased caseloads.
3. School-aged people at MDC must continue to receive mandated educational services. Differences in the Individual Educational Plan and the Individual Habilitation Plan must be addressed.
4. Case management for D.D. individuals needs improvement both in quality and quantity.
5. Staff may feel manipulated.

#### Specific Concerns:

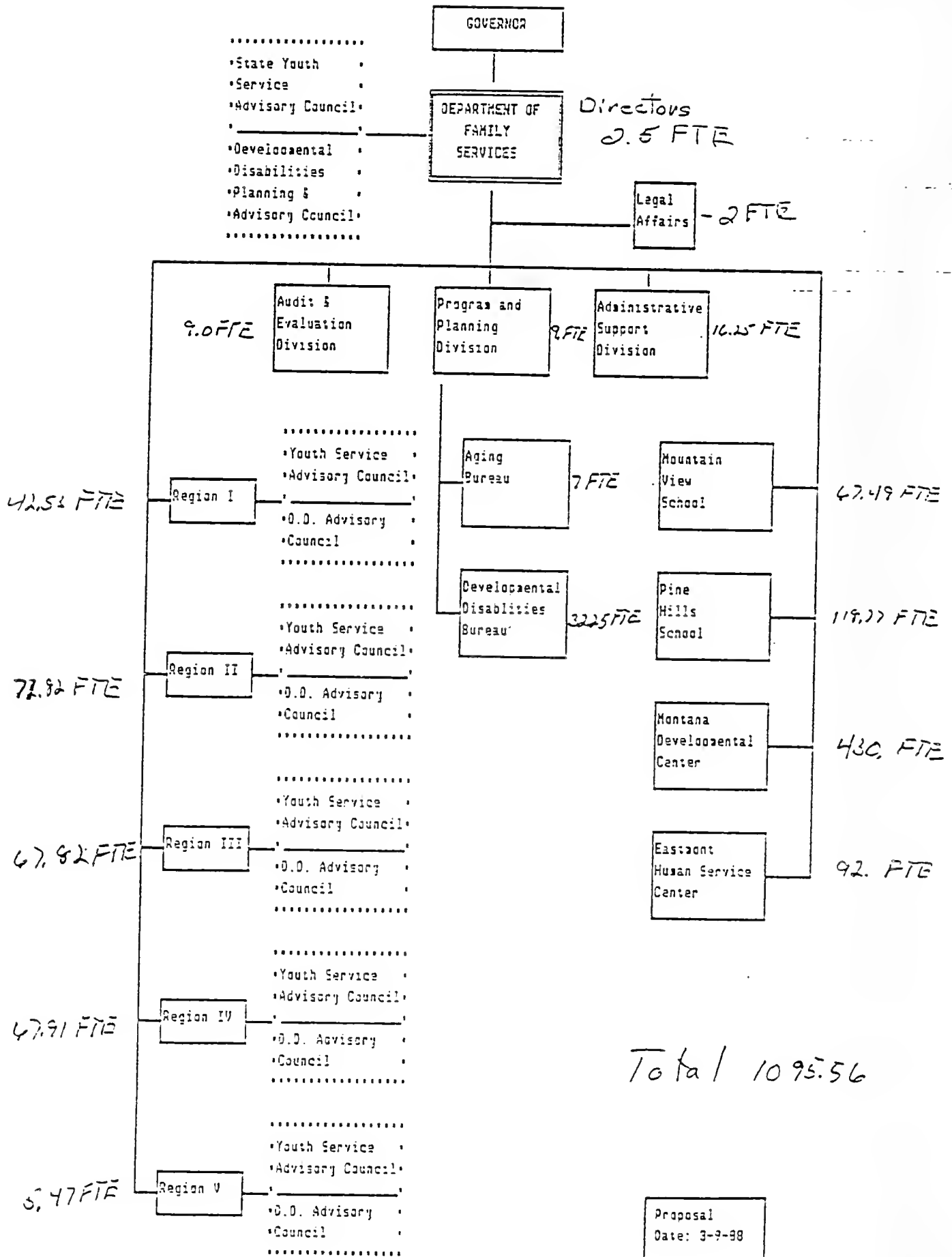
1. The existence of five D.D. regional managers must be ensured.
2. Someone with a D.D. background should be in a high position of authority with administrative access.
3. D. of I. should continue to provide billing, as the system is automated and computerized.
4. D. of I. staff would be needed initially to brief DFS on labor relations issues.

5. Appropriate overhead services, such as legal assistance and the Training Resources Information Center, are crucial; funds must accompany these services.
6. Disparities in state and community-based salaries may cause friction; DFS is developing a salary rate model to clarify this situation.
7. D.D. staff must maintain a separate identity; DFS managed to accomplish this with Aging Services staff.
8. The D.D. institutions consume inordinate amounts of administrative time -- does the DFS director have time to deal with this? If Program and Planning staff deal with institutional issues, it may not be a problem.
9. Will DFS staff have the expertise necessary to deal with D.D. issues?
10. D.D. may be in competition with other DFS services.

Implementation:

1. Go to the field to get local input and aid in planning.
2. Work with the Budget Office to resolve fiscal issues.
3. Draft legislation for January, 1989.
4. Organize a management team to devise an organizational plan and a transition schedule.
5. Draft a statement describing how services will improve.

6. Review past legislation to determine how to effect integration.





## SUGGESTIONS FOR CONSENSUS BUILDING

The following either emerged during meetings with the planning group which assembled to prepare the options or have been developed by staff:

(a) Phase-in implementation. That is, take all steps necessary through the legislative and budgeting processes, then use the first year of the biennium for planning and staging consolidation. Begin operations on July 1 of 1990;

(b) Move DD Division intact to the Department of Family Services to ensure division-level status "at least during the first years of operation. Then a new person can make further changes over time."<sup>1</sup>

(c) Maintain a separate administrative structure for case management so that autonomy and client advocacy is preserved as much as possible.

(d) Maintain a chain of command directly from the two institutions to the department director.

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<sup>1</sup>Planning participant comment.

## GENERAL AGENCY COSTS FOR DD CONSOLIDATION

April 6, 1988 - O9PP

Dept. or Agency	DOI	SRS	DFS	MDC	EHSC	DD DIV.
Budget Item:	FY88 BUD	FY88 BUD	FY88 BUD	FY88 BUD	FY88 BUD	FY88 BUD
FTE						
Direct		32.25	25.20	430.65	92.02	32.25
Support&Admin.	2.5	9.00				
Personal Serv.						
Direct		\$917,781	\$626,248	\$10,051,213	\$1,914,219	\$917,781
Support&Admin.	\$76,016	\$320,000	\$84,856			
Operations						
Direct		\$273,343	\$52,920	\$1,695,025	\$319,560	\$273,343
Support&Admin	\$1,772					
Regional		\$8,500				
Equipment		\$1,607		\$50,000	\$10,000	\$1,607
Benefits (DIR)		\$18,699,867				\$18,699,867
Subtotal						
Direct		\$19,395,991	\$677,168	\$11,796,238	\$2,243,779	\$19,397,598
Support&Admin	\$77,938	\$320,000	\$84,856			
Regional		\$8,500				
Equipment		\$1,607				
Combined Total	\$77,938	\$20,225,098	\$764,024	\$11,796,238	\$2,243,779	\$19,397,598
FUNDING:						
General	\$77,938	\$5,866,961	\$530,232	\$11,739,951	\$2,239,779	\$5,557,305
Federal		\$14,359,137	\$196,173	\$13,626		\$14,339,793
County			\$37,619	\$42,661		
State Special					\$4,000	
Total Funding	\$77,938	\$20,225,098	\$764,024	\$11,796,238	\$2,239,779	\$19,397,598

The direct costs represent entire program costs while support and administrative costs show departmental costs that are over and above specific program costs. Examples of these support costs are centralized services, director and other administrative personnel costs, data processing and etc.

## Presentation by Dr. James Lopach

Human services delivery is a serious issue which raises major jurisdictional problems. These are dynamic, confusing and perennial.

The goal of this overview is to understand the powers and responsibilities of each level within the framework of government. Historical background:

1. Articles of Confederation, 1781 - The state government was sovereign; federal government was subordinate to the state.
2. Constitution, 1787 - ended state sovereignty. The federal government has enumerated powers and cannot act without the Constitution. Whatever is not explicitly or implicitly given to the federal government is reserved for the State. Concurrent powers also exist. When conflicts arise, the Supreme Court acts as umpire. The Supreme court has resolved the following issues:
  - a. Federal law is supreme.
  - b. Federal power is very broad. Congress can probably do anything.
  - c. Nothing is sovereign to the states.

State constitutions take their reserved "police powers" from the federal constitution. States can regulate the health, safety, welfare and morals of their citizens. The federal government could also do this under its powers. Montana's new constitution incorporates executive reorganization--a strong integrated executive branch. According to the "independent and adequate state grounds" doctrine, if a state acts under its constitution and that constitution is adequate, the Supreme Court will usually allow the state to proceed. The Montana constitution requires a different result than that required by the federal constitution. This doctrine allows for state experimentation.

Local governments are creations of the state. Types are:

1. County: Exists for the convenience of the state so local programs (records, voting, etc.) can be administered.
2. Municipality: Incorporated municipalities exist for the convenience of local residents. They allow for action through ordinance and provision of services.
3. Urban County: Allows certain services without the accompanying structure. The Constitutional Convention provided that counties have ordinance or law-making powers as provided by the legislature. Counties respond more slowly than cities.

4. Special District: A new kind of government may be created for a single purpose, in order to get a service.

Purposes of local government:

1. Self-determination.
2. Provision of services.
3. Resolution of local conflicts.
4. To serve as the "laboratories of government".
5. To provide administrative convenience for the state.
6. To serve as a basis of identification for residents.

Structures of local government:

1. Charter form (provides administrative flexibility).
2. Consolidation.
3. Service consolidation or transfer (vote required).
4. Inter-local agreement (by resolution).

Powers of local government and relationship to state: Because states create local governments, states should have final authority over locals (Dillon's Rule). Local governments receive power from the State:

1. Local government has only those powers expressly given by the state.
2. Local governments have only those necessary powers implicit in the constitution.
3. Locals have those powers expressly needed to carry out their purpose.
4. If there is doubt, resolution will be in favor of the state.

Montana got Home Rule in 1976, using the "residual powers approach". Local governments have all powers except those denied by state statutory law or state or local charter. Of Montana's 187 local government units (including 56 counties), 22 units have local government powers. The state constitution denies some things to home rule units: they can't deny due process, establish religion, etc. The Montana legislature enacted a self government code:

- a. Outright denials - units can't define felonies, regulate utility rates, or adopt codes of commercial transactions.
- b. Delegated powers - units can't enact sales or income taxes without legislative agreement.
- c. Cannot undercut state regulations: For example, air quality standards may be stricter than state law, but not more lenient.

- d. Required to collect vital records, hold elections, etc.

Local governments in Montana fall into two tiers:

1. Home Rule (Self-Government)
2. General Government

Self-governing have greater discretion in administering human services and deciding which services to provide, how to provide and how to fund them. For example, a county could raise revenue and go into the business of providing aging services, if this power is not specifically denied. It need not go to the legislature.

Considerations for the Task Force in assigning functions:

1. Authorization--Who is presently authorized? Change may be difficult and not worthwhile.
2. Tradition--What is the experience? What is the performance record of this level of government? Is the service centralized? Local? People may be used to the status quo and satisfied with it.
3. Revenue raising capability and will--In the past, the federal government had the best revenue capacity and will. Now we must ask if revenue raising is important. Does this level of government have the capability and will?
4. Which level is most likely to qualify for federal assistance?
5. Personnel competence--In the past, the federal government was considered most competent. State and local governments dispute this. Rural areas may lack competent personnel.
6. Administrative Supervision--The federal government has been considered better at supervision than the state and the state better than the local. The Montana State government has been reorganized. Has this happened in local government? Perhaps private administration should be considered.
7. Administrative Support Services--Are they sufficient at this level? Are personnel, equipment, legal counsel, etc. available?
8. Extraterritorial considerations--Does it make sense to assign responsibility for a service to a local government if most of the people live outside that area?
9. Ability to coordinate with other units of government--Is there willingness?

10. Need for a uniform approach--Is this necessary? If so, centralization may be necessary.
11. Need for flexible programming--Is this necessary? If so, local government may be best.
12. Mobility and equity--The Constitutional Convention said the state should provide welfare because of recipient mobility; some urban counties would be unfairly burdened.
13. Accessibility to client groups--They need to know where to go for services and who is responsible for provision.
14. Influence of special interests--The size of the area determines who will be influential. In local government, private power will prevail. In state government, those without power can band together to achieve power.
15. Adequate conflict resolution.
16. Adequate legislative oversight--Who will oversee? A city council (meeting weekly)? A county commission (also weekly)? The State Legislature (meeting biennially)?
17. Accountability to citizens--This refers to public opinion, not client groups.
18. Experimentation--Decentralization allows for this.

Local strengths are in participation and responsiveness.

State strengths are expert oversight and redistribution (equity considerations).

Federal strengths are taxation and spending ability.



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